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THE NATURE OF POLITICAL CORRUPTION

IN the whole vocabulary of politics it would be difficult to point out any single term that is more frequently employed than the word "corruption." Party orators and writers, journalists, "muck rakers" and reformers all use it with the utmost freedom, and it occurs not uncommonly in the less ephemeral pages of political philosophers and historians. Transactions and conditions of very different kinds are stigmatized in this way, in many cases doubtless with entire justice; but apparently there is little disposition to inquire into the essential nature of corruption itself and to discriminate in the use of the word.

Detailed definitions of corrupt practices and bribery are of course to be found in every highly developed legal code, but these are scarcely broad enough to cover the whole concept as seen from the viewpoint of political science or ethics. The sanctions of positive law are applied only to those more flagrant practices which past experience has shown to be so pernicious that sentiment has crystallized into statutory prohibitions and adverse judicial decisions. Even within this comparatively limited circle clearness and precision are but imperfectly attained. Popular disgust is frequently expressed at the ineptitude of the law's definitions and the deviousness of the law's procedure, as a result of which prosecutions of notoriously delinquent officials, politicians and contractors so often and so ignominiously fail in the courts. If once we step outside the circle of legality, however, we find extremely confused, conflicting and even unfair states of moral opinion regarding corrup-

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tion. Public anger at some exposed villainy of this sort is apt to be both blind and exacting. Reform movements directed against corrupt abuses are no more free than are regular political organizations from partisan misrepresentation and partisan passion. With all their faults, however, it is largely from such forces and movements that we must expect not only higher standards of public morality, but also a clearer and more comprehensive legislative and judicial treatment of corrupt practices in the future. For this reason it would seem to be desirable, if possible, to formulate some fairly definite concept of corruption, broader than the purely legal view of the subject and applicable in a general way to the protean forms which evil of this sort assumes in practice.

Certain verbal difficulties must first be cleared away. Chief among these, perhaps, is the extreme levity with which the word is bandied about. One word, indeed, is not sufficient, and a number of slang equivalents and other variants must needs be pressed into service: graft, boodle, rake-off, booty, loot, spoils and so on. With all due recognition of recent achievements in the way of gathering and presenting evidence, it is lamentably apparent that charges of corruption are still very frequently brought forward, by party men and reformers alike, on slight grounds or no grounds at all, and also that in many of these cases no intention exists of pushing either accusation or defense to a point where a thorough threshing-out of the matter at issue is possible. In "practical politics" insinuations of the blackest character are made jestingly, and they are ignored or passed off with a shrug or a smile, provided only that they be not of too pointed or too personal a character. Very serious evils may follow reckless mudslinging of this sort. Even if the charges are looked upon as the natural and harmless exuberances of our current political warfare, their constant repetition tends to blur the whole popular conception of corruption. Insensibly the conviction gains ground that practices which are asserted to be so common can scarcely be wholly bad, since public life goes on without apparent change and private prosperity seems unaffected. If, on the other hand, the current accusations of corruption are to be taken at anything like their face value, it

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becomes difficult to avoid the pessimism that sees nothing but rottenness in our social arrangements and despairs of all constructive reform with present materials.

A second verbal point that demands attention is the metaphorical character of the word corruption. Even when it is distinctly qualified as political or business or social corruption, the suggestion is subtly conveyed of organic corruption and of everything vile and repugnant to the physical senses which the latter implies. It need not be charged that such implications are purposely cultivated: indeed they are so obvious and common that their use by this time has become a matter of habit. Witness in current writing the frequent juxtaposition of the word corruption, used with reference to social phenomena, with such words as slime, filth, sewage, stench, tainted, rottenness, gangrene, pollution, and the frequent comparison of those who are supposed to profit by such corruption to vultures, hyenas, jackals and so on. Side by side with the levity already criticized we accordingly find a usage which, however exaggerated and rhetorical it may be, appears to indicate a strong popular feeling against what are deemed to be corrupt practices.

Escape from such confusion can hardly come from the accepted formulas of the dictionaries. Their descriptions or periphrases of corruption are in general much too broad for use in exact discussion. Bribery, indeed, is defined with sufficient sharpness by the *Century Dictionary* as

> a gift or gratuity bestowed for the purpose of influencing the action or conduct of the receiver; especially money or any valuable consideration given or promised for the betrayal of a trust or the corrupt performance of an allotted duty, as to a fiduciary agent, a judge, legislator or other public officer, a witness, a voter, *etc.*

Corruption, however, is by no means synonymous with bribery. The latter is narrower, more direct, less subtle. There can be no bribe-taker without a bribe-giver, but corruption can and frequently does exist even when there are no personal tempters or guilty confederates. A legislator may be approached by a person interested in a certain corporation and may be promised a definite reward for his favorable vote on a measure clearly

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harmful to the public interest but calculated to benefit the corporation concerned. If the bargain be consummated it is unquestionably a case of bribery, and the action involved is also corrupt. But, if current reports are to be believed, it sometimes happens that legislators, acting wholly on their own initiative and regardless of their duty to the state, vote favorably or unfavorably on pending bills, endeavoring at the same time to profit financially by their action, or by their knowledge of the resultant action of the body to which they belong, by speculation in the open market. In the latter instance they have not been approached by a personal tempter, and the brokers whom they employ to buy or sell may be ignorant of the motives or even of the identity of their patrons. Clearly this is not bribery, but equally clearly it is corrupt. The distinction is perhaps sufficiently important to justify the coinage of the term "auto-corruption" to cover cases of the latter sort.[1] Corruption in the widest sense of the term would then include both bribery and auto-corruption, and may be defined as *the intentional misperformance or neglect of a recognized duty, or the unwarranted exercise of power, with the motive of gaining*[2] *some advantage more or less directly personal.*

It will be observed that none of the terms of the foregoing definition necessarily confines corruption to the field of politics. This is intentional. Corruption is quite as possible elsewhere as in the state. That it has so frequently been discussed as peculiarly political is by no means proof that government is subject to it in greater degree than other social organizations. One might rather conclude that the earlier discovery and more vigorous denunciation of corruption as a political evil showed greater purgative virtue in the state than in other spheres of human activity. For surely the day is gone by when the clamor of reformers was all for a "business administration" of public affairs. Since that era business has had to look sharply to its

[1] Other illustrations of auto-corruption may be found in speculation by inside officials on the basis of crop reports not yet made public, and in real-estate deals based on a knowledge of projected public improvements.

[2] Misperformance and neglect of duty do not clearly include cases of usurpation with corrupt motives; hence the addition of this clause to the definition. Some usurpations may of course be defended as involving high and unselfish motives, and hence free from corruption.

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own morals—in insurance, in public utilities, in railroads, in corporate finance and elsewhere. Revelations in these fields have made it plain that much of the impetus to wrong-doing in the political sphere comes originally from business interests. This is not to be taken as in any sense exculpating the public officials concerned; it simply indicates the guilt of the business man as *particeps criminis* with the politician. Moreover business can and does suffer from forms of corruption which are peculiar to itself and which in no way involve political turpitude. Such offences range all the way from the sale by a clerk of business secrets to a rival concern and the receipt of presents or gratuitous entertainment from wholesalers by the buyers for retail firms up to the juggling of financial reports by directors, the mismanagement of physical property by insiders who wish to buy out small stockholders, and the investment of insurance or other trust funds to the private advantage of managerial officers.

Besides business and politics, other spheres of social activity are subject to corrupt influences. Indeed wherever and whenever there is duty to be shirked or improperly performed for motives of more or less immediate advantage evil of this sort may enter in. This is the case with the church, the family, with educational associations, clubs, and so on throughout the whole list of social organizations. To ingratiate himself with wealthy or influential parishioners, for example, a minister may suppress convictions which his duty to God and religion require him to express. A large proportion of the cases of divorce, marital infidelity and childless unions reflect the operation of corrupt influences upon our family life. Endowments or bequests to universities or colleges may be coupled with express conditions or, worse still, with tacit understandings that will hardly bear scrutiny, while many features of intercollegiate athletics are notoriously bad. If corrupt motives play a smaller part in the social organizations just mentioned than in politics or business it is perhaps not so much due to the finer fiber of churchmen, professors and the like, as to the subjection of the more grossly gainful to other motives in clerical, educational and similar circles.

While the possibility of corruption is thus seen to be ex-

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tremely broad, our present concern is chiefly with political corruption. To adjust the definition hazarded above to cover the latter case alone it is necessary only to qualify the word "duty" by the phrase "to the state." Further discussion of the various terms of the definition, thus amended, would seem advisable.

I. To begin with, corruption is *intentional*. The political duty involved is perceived, but it is neglected or misperformed for reasons narrower than those which the state intends. Failure to meet a recognized duty is not necessarily corrupt; it may be due to simple inefficiency. The corrupt official must know the better and choose the worse; the inefficient official does not know any better. In either case the external circumstances may appear to be closely similar, and the immediate results may be equally harmful. No doubt what is often denounced in the United States as corruption is mere official stupidity, particularly in those spheres of administration still filled by amateurs and dominated by the "rotation of office" theory. Thus a purchasing official unfamiliar with his duties may prove the source of large profits to unscrupulous dealers. So far as the official himself is concerned no private advantage may be sought or gained, but the public interest suffers just the same. In another case the official understands the situation thoroughly and takes advantage of it by compelling the dealers to divide with him the amount by which the government is being defrauded, or he may go into business with the aid of office boys or relatives and sell to himself as purchasing agent. The latter are clear cases of bribery and auto-corruption respectively, but so far as immediate results are concerned the state is no worse off than with the official who was merely ignorant or careless. To one not in full possession of the underlying facts all three cases may appear very similar.

Successful corruption, however, tends to become insatiable, and in the long run the state may suffer far more from it and from the spread of the bad moral example which it involves than it can easily suffer from simple inefficiency. On the other hand inefficiency also may spread by imitation, although perhaps more slowly, since it is not immediately profitable, until the

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whole service of government is weakened. Moreover inefficiency may develop by a very natural process into thoroughgoing corruption. If not too stupid, the incapable official may come to see the advantages which others are deriving from his incapacity and may endeavor to participate in them. Because of his failure to obtain promotion so rapidly as his more efficient fellow servants, he may be peculiarly liable to the temptation to get on by crooked courses. Practically, therefore, inefficiency and corruption are apt to be very closely connected—a fact which civil service reformers have long recognized. It would also seem that the two are very closely connected in their essential nature, and only a very qualified assent can be given to the doctrine that inefficiency, as commonly understood, is morally blameless. To be so considered the incapable person must be entirely unaware of his inability to measure up to the full requirement of duty. In any other event he is consciously and intentionally ministering to a personal interest, be it love of ease or desire to retain an income which he does not earn, to the neglect of the public duties with which he is entrusted. Now, according to the definition presented above, this attitude is unquestionably corrupt. It is, however, so common on the part of both officeholders and citizens that its corruptness is seldom recognized.

II. Political *duty* must exist or there is no possibility of being corruptly unfaithful to it. This statement may seem a truism, but the logical consequences to be drawn from it are of major importance. Among other things it follows that the more widely political duties are diffused the more widespread are the possibilities of corruption. A government which does not rest upon popular suffrage may be a very bad sort of government in many ways, but it will not suffer from vote-buying. To carry this thought out fully, let us assume an absolute despotism in which the arbitrary will of the ruler is the sole source of power.[1] In such a case it is manifestly impossible to

[1] Mr. Seeley has shown, of course, that no actual despotism, so-called, really conforms to this conception, but for purposes of argument, at least, the assumption may be permitted to stand.

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speak of corruption. By hypothesis the despot owes no duty to the state or to his subjects. Philosophers who defend absolute government naturally lay great stress on the monarch's duty to God, but this argument may be read out of court on the basis of Mencius's dictum that Heaven is merely a silent partner in the state. The case is not materially altered when responsibility under natural law is insisted upon instead of to the Deity. Now since an absolute despot is bound to no tangible duty, he cannot be corrupt in any way. If in the conduct of his government he takes account of nothing but the grossest of his physical lusts he is nevertheless not unfaithful to the principles on which that government rests. Viewed from a higher conception of the state his rule may be unspeakably bad, but the accusation of corruption does not and cannot hold against it.

Conversely corruption necessarily finds its richest field in highly organized political communities which have developed most fully the idea of duty and which have entrusted its performance to the largest number of officials and citizens. The modern movement toward democracy and responsible government, beneficent as its results in general have been, has unquestionably opened up greater opportunities for evil of this sort than were ever dreamed of in the ancient and mediæval world. Economic evolution has coöperated with political evolution in the process. There is a direct and well-recognized relationship between popular institutions and the growth of wealth. It is no mere coincidence that those countries which have the most liberal governments are also today the richest countries of the world. With their growth in wealth, particularly where wealth is distributed very unequally, materialistic views of life have gained ground rapidly. Thus while the liberal development in politics has opened up wide new areas to the possibility of corruption, the corresponding development in the economic world has strengthened the forces of temptation.

Viewed in this light it must be admitted that our representative democracy with its great international obligations, its increasing range of governmental functions, its enormous and unequally distributed wealth and its intense materialism, is

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peculiarly subject to corrupt influence. This does not necessarily mean that the republic is destined to be overwhelmed by selfishness. It does mean, however, that we cannot rest secure upon the moral achievements of our ancestors and the institutions which they have transmitted to us. We must develop a more robust virtue, capable of resisting the greater pressure that is brought to bear upon it.

But even if it be conceded that there is a greater measure of successful temptation among us than in the European nations which twit us with corruption as our national vice, it does not follow that we are inferior in political morality to these, our self-appointed moral censors. Reverting to the illustration with regard to vote-buying, it is evident that we could stop this particular form of corruption at once by the simple and obvious, although practically impossible, measure of abolishing popular suffrage. Assuming, for the sake of the argument, that this could be accomplished, we might readily find ourselves burdened with greater political evils than venal voting—for instance, the development of an arrogant oligarchy and the growth either of a sodden indifferentism or of a violent revolutionary spirit among the masses. A large percentage of Prussian citizens of the poorer classes sullenly refrain from voting, nor are they in the habit of selling their votes. Presumably some of them would be venal if they had the opportunity, but the three-class election system makes their political influence so minimal that their ballots are not worth either the casting or the buying. Neither do Prussian municipal officials engage in boodling, but the ascription of superior virtue to them on this account must be tempered by a knowledge of the fact that the local government of the country is kept closely in leading strings by the state. Paradoxical as it may seem, it is none the less true that political corruption implies the existence of political virtue; it implies trust in the performance of duty, widespread obligation to perform it, and confidence that in the great majority of cases it will be performed in spite of the derelictions that such conditions occasionally entail. If monarchies are less corrupt than democracies, it is also true that monarchies do not repose so much faith in the fundamental honesty of their citizens as do

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democracies. At least they do not put it to such severe political tests.

III. In attempting to define corruption, emphasis was laid upon the condition that the duty misperformed or neglected for personal reasons must be *recognized*. The latter word needs further elucidation. Political duties are defined at great length, of course, in constitutions, laws and charters. Yet with all our care in providing laws to govern our governors it can not be maintained that political duty is always so clear as to be easily recognizable. It may indeed be the case that we have at times clouded the situation by the very number and complexity of our legislative acts. Able lawyers frequently differ, for instance, in their views regarding the powers and limitations affecting the action of a mayor under a city charter in a given case. Again, the amount of work required of limited bodies of men is sometimes so great that its full performance is physically impossible, even assuming perfect comprehension and perfect efficiency on their part. Thus our municipal police forces, it is often asserted, are quite insufficient to execute all the laws and ordinances which it is their duty to enforce. The discretion which they must therefore exercise is an extremely dangerous one, and the continuance of its exercise, suggesting the possibility of suppressing this or that law for personal reasons, is very apt to be provocative of corrupt manipulation.

Apart from the difficulty of clearly perceiving duty, owing to the number and complexity of our legal requirements, certain degrees of difficulty varying with the nature of the political service required deserve consideration. A public official whose work is purely administrative and ministerial would supposedly have a relatively clear path before him. Deflection from it should be easily recognizable and punishable. Thus the making of inspections or the granting of permits by authorized officials would seem to be too open for corrupt influences to tamper with. Yet even here the complexities and volume of the business presented and the material interests involved lead to many dishonest practices, as shown in the granting of liquor licenses and building permits, the inspection of life-saving devices, and

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so on. Judicial authorities have statutes and precedents to guide them, but every new case presents peculiar circumstances which may furnish opportunity or concealment for a sinister deflection. When we come to superior executive officers who are entrusted with large discretionary powers, and to legislators whose main function is the determination of policy, it is evident that the path of duty is frequently indefinite. To officials so situated personal advantages may offer themselves on both sides of a given question. Amid so complicated a play of motives as must assail these authorities, it becomes at times a matter of almost infinite difficulty to distinguish and disentangle those more or less remotely personal and venal and to give proper weight to those only that make for the welfare of the state.

In discussing the question of the clearness with which duty presents itself we have thus far assumed that relatively exact positive norms are available. The question is greatly complicated, however, by the reflection that we must deal not only with the law but also with the prophets. What of those who, like the socialists, dream of a future state to which they owe allegiance rather than to the present state? Or of those whose elevation to power, as not infrequently happens under representative government, is due to a certain class in the community, the ideals of which they feel bound to support, be they leveling or aristocratic? Assuming that officials or voters of this kind seek no personal advantage whatever, the accusation of corruption would not hold against them, although those injured by their action would most certainly make such charges.

On the other hand advanced reformers do not hesitate to charge with corruption many existing social institutions of apparent solidity. Periods of confusion in constitutional arrangements, as Mr. H. J. Ford has pointed out,[1] are apt to be corrupt, or at least filled with charges of corruption. Doubtless the same observation would hold true for periods of class feeling or moral unsettlement, which, after all, are only the precursors of constitutional reform. At times when all kinds of conflicting views of duty are current, it is of course easy for different individuals and classes to form extremely divergent

[1] POLITICAL SCIENCE QUARTERLY, vol. xix (1904), p. 673.

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views of the morality or immorality of given acts or institutions. Thus, among us, property of various sorts and property in general, government in certain forms or in all forms, marriage, the church, medicine and law, and those who represent them, are all denounced by small or large groups as graft and grafters. And indeed one need not be a thoroughgoing radical to observe that in some instances narrow and selfish interests have crept into these institutions, warped their highest ideals and crippled their efficiency. There seems to be little justification, however, for the employment of the word corruption in such sweeping fashion. Those who so employ it can not pretend that any general consensus of moral opinion supports their usage. No doubt many propositions for social change which are now considered extremely radical will gradually gain converts and will ultimately be enacted into law; but not all reforms can appeal unerringly to the future for justification. Institutions hotly assailed in times past have not infrequently outlived their detractors and developed new possibilities of social utility. The formation of modern nationality itself wore the appearance of corruption to many contemporary observers. With all due respect for unfledged reforms, we may fitly remind their advocates that the force of a hard and stinging word like corruption is materially weakened by employing it in senses familiar only to the members of a small circle. Such reckless usage is similar to that of the party politicians criticized above, and it is similarly adapted to produce either a callous levity or a sour distrust of social integrity which in the end must react unfavorably upon every constructive effort for social betterment.

IV. The motive of a corrupt act must be *some advantage more or less directly personal*. The grosser the nature of the advantage sought and the more directly selfish the purpose, the worse from the moral point of view is the transaction. Thus in the case of venal voters or boodling aldermen we have direct transfers of money or its equivalent, to be employed later, it may be, solely to the advantage of the men who sell themselves. Or still more reprehensible, high police officials or even mayors of cities may be in receipt of sums which they know were paid

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originally by criminals or prostitutes for license to disobey the law. Perhaps we are too prone to think of all political corruption as consisting essentially of such gross cases and sordid transactions. In one way it is unfortunate that this is not the case, for, if it were, the task of defining and uprooting the evil by law would be comparatively easy. As a matter of fact we have to deal with every possible *nuance* of corruption, shading off from the most palpably illegal and immoral acts to apparently harmless transactions that are of everyday occurrence even in circles that would hotly deny the least imputation of wrongdoing.

Let us consider first the various gradations of corrupt action as regards the advantages offered and sought. There are crassly venal persons, of course, whose itching palms are held outstretched for cash bribes, but these after all are the small and stupid minority of the army of corruptionists. Many who would scorn a direct bribe are, however, quite willing to receive considerations more tactfully offered but almost as purely material —shares of stock, railroad passes, salaried positions, *etc.* In pointing out the distinction between bribery and corruption, the large possibilities of "auto-corruption" have been touched upon. The absence of a personal tempter seems very often to veil the real nature of a corrupt act, and contemporary usage completes the illusion of innocence. Tax-dodging is a case in point. Here the citizen is seeking, not a bribe, of course, but merely to cut down as far as possible an inevitable deduction from his income. He may depend upon his political influence, his friendship with assessors, his contributions to campaign funds, or upon the misrepresentation of facts in obtaining the reduction, but he would refuse indignantly to offer a cash bribe to secure action which he knew would be disadvantageous to the government. He might refuse with equal heat to accept a cash bribe to secure his continued allegiance to a party or his continued support of particular politicians. It hardly occurs to him that in a sense he is bribing himself with a part of his own income. Of course this case leaves open the question of the justice of the tax and of the failure of the state to provide suitable technical safeguards to prevent evasion. Unjust or ill-

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constructed tax laws do not, indeed, justify corrupt action on the part of individuals, but they do transfer part of the moral guilt to the state. Other instances of veiled corruption readily suggest themselves—the intrigues of banks to secure the deposit of public funds, the devices employed to escape tenement-house, sanitary or life-saving inspections, the appropriation by officials of government supplies or services as "perquisites" of office, and so on.[1]

Besides material inducements almost every object of human desire may tempt to corrupt action. Social position, personal reputation, office, power, the favor of women, the gratification of revenge—all these have been artfully adapted by corruptionists to bear with the greatest weight upon the tempted individual. Far more often, however, temptations of this kind originate within. They are the more dangerous because they prevail with men of much higher type than venal voters or boodling aldermen. But it will be objected that these are not necessarily objects of corrupt desire; that on the contrary they are currently recognized as part of the necessary driving power of political and other human activities, and praised as such by contemporaries and historians alike. The point is well taken in so far as it is maintained that such rewards are not necessarily sought by corrupt means. So far as that is concerned, the money which a corrupt legislator accepts is not bad in itself, nor need it be put by him to other than very creditable uses. The evil lies in the deflection from duty which the money bought, in the resultant deterioration of character and in the contagion of bad example. Precisely the same thing may be said of the so-called higher objects of desire to gain which men sell their political honor. This distinction goes far toward disposing of the objection that such motives are not corrupt because they are currently recognized as necessary and beneficial in political life. So far as their effect is the reinforcement of the influences which make for the performance of public duty there is no reason why they should not be regarded as good. To regard them in the same way when they have a directly contrary moral effect is a pernicious perversion of a true idea.

[1] *Cf.* C. Howard, "The Spirit of Graft," *Outlook*, vol. lxxxi (1905), p. 365.

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Nevertheless the fact must be faced that the public conscience is often deceived on this point; and that as a consequence practices are tolerated which will not bear the most cursory moral inspection. Sometimes these practices become so common that all consciousness of wrong-doing is lost. On this ground it might be maintained with reason that they are not corrupt according to the conventional morality of the time. It is this condition of affairs which makes the subtler aspects of corruption so much more dangerous and so much less easy to cope with than common bribery. Yet even here the outlook is hopeful. Corruption in its more insidious forms is not the vice of low intellects. Hence in many cases education of the public conscience will either suffice to banish these forms of evil or may be depended upon to find the legal means of destroying them. Our own recent experience with the abolition of railroad passes is a case in point, although passes can hardly be considered an extremely subtle means of corruption. Social ostracism, public contempt and loathing of the corruptionist, regardless of his looted wealth, may prove a stronger deterrent in the future. At present, perhaps, too many of us live in glass houses to make stone-throwing general and effective.

V. Just as the advantages sought by corrupt action may shade off from the more to the less material, so also the *personal interest* involved is susceptible of numerous gradations from egoism to altruism. It may be entirely selfish, as in the case of a bribe credited directly to the bank account of the bribe-taker. It may be extended to include the welfare of relatives—a form of corruption so common as to have acquired a name of its own. It may be broader still, appearing as favoritism to friends. Finally, it may be so extended that the individual interest is merged in the interest of certain groups, such as the party, the church, the labor union, the secret society and so on. The state is by no means the only sufferer by this process, any more than it is the only social group afflicted by corrupt practices. An official sentimentally mindful of the needs of Mother Church may cheerfully consent to burden the public treasury with a large part of the cost of maintaining an orphan asylum

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mismanaged by ecclesiastical officials. Political influence may be brought to bear upon Rome to secure the creation of a new American cardinal acceptable to certain influential classes in this country. Desire to placate the labor vote has paralyzed the employment of the police power by governors or mayors to put down violence during strikes. And labor leaders, seduced by promises of office, have consented to misrepresent and betray their followers. Complementary illustrations of this sort might be cited indefinitely. It is not maintained that the larger part of the interrelations of social groups is tinged with corruption. Directly the contrary is more nearly true. Thus the interests of the state and of the family are so largely coincident that the latter is frequently spoken of as the unit of the former. Nevertheless family interests may be cultivated very greatly to the detriment of political life. Many flagrant examples of nepotism and the all too prevalent neglect of the duties of citizenship to cultivate those of the family circle are cases in point. It is no mere coincidence that one of the most soddenly corrupt municipalities in the United States is peculiarly distinguished as the "City of Homes." Again, a business man may be vastly more efficient as citizen or public official because of his experience in business, but, on the other hand, he may make use of this experience to plunder the state, or he may allow himself to become so thoroughly engrossed in money-making that others plunder it with impunity. Knowledge gained by social intercourse with parents may enable the teacher to perform his work with far greater discrimination as to the individual peculiarities and needs of the children under his tuition, but it may also tempt him to gross favoritism and toadyism.

In discussing cases of corrupt action procured by inducements not directly material in character it was pointed out that current moral opinion does not clearly recognize the evil involved. Similarly it may be indicated that many of the less somber *nuances* of corruption resulting from the selfish interrelations of social groups hardly deserve condemnation, because they are not commonly recognized as deflections from duty. This may be conceded so far as the present conditions of morals is concerned; but under any sharper analysis than is currently em-

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ployed the element of corruption contained in such actions is manifest. The difficulty of the situation is enhanced by the fact that it is extremely hard to separate and define duty and self-interest in many of the relations of social and individual life. Nevertheless the effort must be made. We must distinguish and define economic interest, family interest, public interest. We have for our guidance the great general principle: "Render to Cæsar the things that are Cæsar's, and to God the things that are God's." It is no valid plea in avoidance that it is hard to distinguish the things that are Cæsar's and the things that are God's. Rather would it seem to be enjoined upon a robust morality incessantly to search the heart regarding all the details that arise in following the commandment.

The most perplexing questions that arise in this interrogation of duty spring from the conflict between fundamental and general moral ideas and the customs of various social groups. It is considered entirely allowable and laudable, for instance, that a father should encourage his son to succeed him in business, even if the business be not his but that of a corporation in which he is simply an official. Many of the means employed to this end—education, travel, apprenticeship and so on—are beyond reproach. Others involve gross favoritism and disregard of the merits of employees not connected with the family. The most noteworthy point involved in this illustration is that a procedure which passes without question in business and family circles is recognized as reprehensible in politics. From this discrepance in social judgments it follows, however, that the man who has made a success in politics may find it very difficult to see anything but the far-fetched morality of the "unco-guid" in the proposition that he may not provide places in the public service for his relatives and dependents, just as the man who has been successful as a merchant or manufacturer is in the habit of doing in his store or factory.

It would be possible to point out many similar divergences between the fatherly and motherly indulgence of family life, the charity, long-suffering and forgiveness of Christian faith, the easy tolerance of social life on the one hand, and, on the other, the ideal of justice, cold and impassive, which we associate with

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the state. In her admirable discussion of "Friendship and Politics,"[1] Mrs. Simkhovitch has given us what is, on the whole, a very sympathetic picture of the poor man who would scorn to sell his vote outright but who delivers it blindly to the "big hearted" ward leader, whose kindly interest and protection he so constantly needs to secure work and avoid oppression. It is hardly fair to characterize his attitude in slightly ironic phrase as dominated by the principle of the "sacredness of the job." Hard, continuous labor and the support of a family under such conditions are virtues of no small proportions. In large part, as Mrs. Simkhovitch has pointed out, devotion to the ward leader may be much less the expression of selfishness than of the traditional loyalty of a race, class or neighborhood. Such loyalty, within limits, must also be accounted a virtue. Finally, in attempting to judge the case, we must inquire into the opportunities which voters of this sort have had for acquiring high ideals of civic conduct. Are the best attainable results secured by our systems of education, poor relief, correction and taxation? Need nothing further be done to prevent child labor, to furnish better housing conditions and to safeguard the public health?

If we concede the necessity of social reform in these or any other directions, we impliedly recognize either the failure of society to live up to its own ideals or the necessity of new and higher ideals of social conduct. And this recognition involves the assumption of part of the moral guilt of existing corruption by society itself. Mr. G. W. Alger has noted the current dissatisfaction with the ideal of pure cold justice.[2] He also insists, correctly enough, that justice is the rock upon which alone generosity can safely build. The two ideals should not, however, be dealt with as fundamentally incompatible. Not since the time when Thomas Aquinas first recognized the caritative function of the state has such a view been tenable. More and more the state has endeavored in modern times to live up to this duty of protecting the poor and weak. Its fuller realization will

[1] POLITICAL SCIENCE QUARTERLY, vol. xviii, (1902), p. 188.

[2] *Atlantic*, vol. xcv, (1905), p. 781.

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mean the disappearance of many of the existing causes of corruption.

One aspect of corruption for motives not entirely personal must be dealt with separately, both because of the moral casuistry involved and because of its practical importance. This is the acceptance and use for party purposes of money paid to bosses or other leaders for the corrupt use of their political power. While the personal interest of the politician as a member of the party organization is usually involved to some extent in such transactions, the purely selfish element may be extremely attenuated. Thus Floquet, accused of having accepted money for his favorable vote as member of the French Chamber of Deputies on the Panama canal scheme, defended himself on the ground that every *centime* of the sum paid him had been used for the benefit, not of himself, but of the party to which he belonged.[1] Thurlow Weed is alleged to have used his political control of the New York state legislature in 1860 to secure the granting of several franchises for street railways in New York city to a gang of lobbyists, and to have spent the four to six hundred thousand dollars of "campaign contributions" obtained in this manner to back the candidacy of Seward for the presidential nomination at the Chicago convention of the Republican party. In such cases not a cent of the corruption fund may stick to the hand of the party chief receiving it. Indeed it is not inconceivable that his devotion to party ends or to a party leader might induce him to pursue a corrupt course of conduct even though he foresaw his own ruin, politically or otherwise, as the certain result of his action.

Cases of the foregoing sort force us to a recognition of the fact that when political passion has reached its climax, as at the end of a hard fought campaign involving great principles, all considerations besides party success are apt to sink into nothingness. Properly considered, of course, the party organization is a social institution subordinate to the state, but it differs materially in one way from other social groups of the same rank, such as business associations, the church, the family, *etc.* The latter accept their subordination more or less passively, but

[1] J. E. C. Bodley, France, book iii, ch. vi, p. 306.

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the party avowedly seeks to gain control of the government. Of course it professes its intention to conduct public business honestly and for the benefit of the whole people, but fine distinctions such as these are apt, in the heat of conflict, to be lost sight of by practical politicians. Not unnaturally they identify the interests of the state with the interests of their party, and the acceptance of dishonest money, with the possible danger which such an act involves, may easily seem to them a patriotic duty rather than a heinous offense. In all their corrupt bargaining they are conscious of a certain devotion to ideal ends. They may sell franchises, but they would refuse to betray a candidate. They may allow a local gang whose support is essential to loot a city government, but they would not abandon a fundamental party principle. On the contrary they would defend their conduct as designed to secure the triumph of a great right by the commission of a small wrong.

This argument is perhaps the most subtle that can be offered, and the form of corruption for which it finds a quasi-justification is assuredly the most dangerous with which we are confronted today. It will be observed, however, that the foregoing illustrations involve a higher range of motives than can be ascribed to our ordinary political bosses. Doubtless there have been exceptional cases of party leaders who, for minor but corrupt governmental favors, have accepted money and turned every cent of it into the party treasury for honest propaganda work. But once admit this conduct to be justifiable and the day of such leaders will soon be over. Inevitably they must be succeeded by less scrupulous politicians who will sell public property and betray public interests right and left, and, after deducting large sums to feather their own nests, still be in a position to contribute to the support of the party more largely than any conscientious leader. Under these conditions the political influence of wealthy corporations or wealthy men will be limited solely by the amount of money they are willing to spend. No matter with what reservations and good intentions such practices are entered upon, they will mean in the end nothing more and nothing less than that government is on hire or on sale to the highest bidders. There is no easier road by

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which democracy may pass over into plutocracy; and it is indeed fortunate that the American people in its recent attitude toward the question of campaign contributions has begun to show an adequate realization of the danger confronting it.

To sum up the argument presented in the foregoing pages, it should be noted that while it is comparatively easy to formulate a definition of corruption, to point out the difference between the legal and ethical conceptions of the matter, to distinguish between bribery and auto-corruption and, in general, to mark out the logical boundaries of the field, the application of these definitions and distinctions is made immensely difficult by the variety of political institutions, the divergence of political practices and the conflict between general opinion and class opinions. A number of conclusions would nevertheless seem to deserve at least tentative expression.

(1) The prevalence of charges of corruption and of actual corruption in American politics is not of itself proof of our inferiority in political morality to the other great nations of the world.

(2) Considering opportunities and temptations, our current political morality is at least not yet proven to be inferior to our business and social morality in general.

(3) Unsupported charges of corruption are too frequently indulged in by practical politicians, reformers and conservatives, the results being a popular moral callousness and a loss of social confidence which render all constructive work more difficult.

(4) Acts involving corrupt motives range in current social estimation all the way from heinous felonies to minor foibles. The view that there are only a few "corruptionists," all of whom richly deserve criminal sentences and might receive them without unduly crowding our penitentiaries, is a grotesque misconception. Instead of this we must recognize frankly that self-interest and social interests are inextricably bound up as motive forces of our social machinery, often working in harmony and reinforcing each other, but sometimes colliding and presenting new questions for moral determination and social protective action.

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(5) From among such cases of collision between social and self-interest we must endeavor to single out those most obviously harmful to society and the state, and, not content with branding them as morally bad, we must formulate legal prohibitions supported by penalties severe enough to check the evil. Particularly important in this field of work is a thorough solution of the whole question of party finances.

(6) Certain cases in which political action is determined by corrupt considerations may be more effectively combated with moral than with legal sanctions. These are cases which threaten no very serious consequences, cases in which the corrupt considerations are not directly material in character, cases in which personal advantage is not so much sought as the advantage of some social group, and all other cases of so subtle or undecided a character that definite legal action, at least under existing conditions, is impossible. In the presence of many such difficulties we can only plead for a clearer recognition by the individual of duty to the state and to society as a whole. On the other hand, society and the state as now constituted fall short of a full and humane ideal of justice and hence are partly responsible for existing corruption.

Finally it should be said that all effective work against corruption must be two-fold. On the one hand we must endeavor to raise moral and legal standards to a higher level. On the other hand we must unrelentingly prosecute actual offenses to the full extent of existing law. Work of the first sort must be either impersonal or based upon well authenticated facts. Work of the second sort must above all things be subjected to a wise restraint; sweeping charges resting merely upon suspicion must be scrupulously avoided; direct and well-founded charges must be put into legal form and fought to the last resort. Reformers should learn to bring down all direct and personal accusations to the level of existing law, until they have succeeded in bringing the level of the law up to their ideal standard.

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MUNICIPAL SOCIALISM AND ITS ECONOMIC LIMITATIONS

WITH SPECIAL REFERENCE TO CONDITIONS IN NEW YORK CITY

THE theoretic socialism which involves the destruction of our existing society and its reconstruction on other bases has made little progress towards accomplishment. But as the increased coöperation necessary to enable modern civilization to perform its complex functions leads us each year further away from the simpler individualism of early life, we are drifting, for the most part unconsciously, toward a practical socialism, the tendencies and results of which it becomes highly important to analyze.

We call this movement municipal socialism, but, as in the case of the other, older and parent socialism, its definition is not easy. Viewed in its broadest aspect, it might mean merely the use which communities make of government in order to engage in coöperative effort. But this would be almost equivalent to making it a synonym for government itself. What is commonly understood by the term municipal socialism is the use by municipalities of the powers of general taxation to obtain special advantages which do not enure to the benefit of those who chiefly defray the cost. It is a phase of the universal struggle of those who have not to take from those who have. It signifies the tendency to depart further and further from those earlier ideas of justice in taxation, which required that the users of public utilities should pay for them, each according to the benefit he derived.

In the earlier stages of urban development, it was comparatively easy to adhere to such principles of justice. For example, in the days of the Dutch occupation of New York, when it was deemed necessary to pave the street known as "Prince's Graft"—inappropriate name!—each resident was required to pave that portion of the street which lay before his own door. While this service is now commuted by money payments, its

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essential principle still adheres in our special assessments for benefits. The growth of the "fee system" also contemplated that the benefits of certain advantages of government should be paid for by those who use them. This is still an important factor in modern revenue systems. We have our court fees for litigants, writers of letters still pay postage, and the users of water still pay water rates. But with the growth of municipal functions it has been found impossible to apportion to each citizen his share of the public burden, based on the particular benefits he derives; and each year municipalities are led to depend more and more upon general taxation to meet the expenses of government. In a popular sense, any system of government is generally regarded as socialistic which enables the useless or thriftless drones of society to share equally with the workers those public advantages and conveniences which are provided at public expense. Yet our parks are free to tramp and millionaire alike, and our public schools not only permit but enforce, by means of truancy laws, the attendance of all children of a certain age.

The sense of justice which every man feels (and freely expresses when his own interests are not involved) demands that taxes shall, so far as possible, be equitably imposed. But the laws of the incidence of taxation and its economic effects are still matters of dispute among political economists; and, even if they were understood by the general public, it is clear that no workable system of taxation could be devised or administered which was based solely on the principle of *quid pro quo*.

If we regard, then, as socialistic any system whereby the property of one man is expropriated by forms of law for the benefit of another, it is manifest that in some degree this kind of theoretical injustice has long been with us. It is the extent of its development rather than its mere existence which is of practical interest.

Without tracing in detail the development of municipal revenue systems, it will be sufficient to show how far we have departed from the earlier ideas of justice in taxation by referring to the results of the operation by the city of New York of the Staten Island Ferry. This ferry is owned by the city and

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is operated at an annual loss of about three-quarters of a million dollars. This sum does not fall far short of representing the entire amount of taxes paid by the borough of Richmond as its contribution towards all the expenses of city government.[1] In view of the fact that this ferry is run practically for the sole benefit of the residents of this borough, justice in taxation would seem to require that this loss should be borne by them; and if we should imagine the taxes paid by the borough of Richmond to be devoted to this purpose, the result would be that every other service of a public character which that borough receives—police and fire protection, educational, correctional and charitable institutions, health service *etc.*—would have to be regarded as almost a free gift from the taxpayers of the other boroughs. Again: the taxes for 1908 levied on the property within the old village of Corona in the borough of Queens amounted to $132,085.39; whereas the amount spent in 1908 by the city of New York in this same district for educational purposes alone amounted to $107,174.70.

In commenting upon the subtle growth of municipal socialism, a recent writer[2] remarks that "one of the striking peculiarities of the human animal is the readiness with which it accepts improved conditions and forgets that the previous conditions ever existed"; and then he proceeds to say: "In view of the general failure to realize the extent of the progress already made, it seems that Shaw was nearer right when he said: 'The practical abrogation of property, as it exists at present, will occur without being much noticed.'"

It is rather remarkable that the more influential advocates of municipal socialism at the present time are not found among the propagandists of socialism as a theory of government. Strange to say, it is in large part from individuals of the propertied class that the movement at present derives its impetus. Philanthropists impatient of the slow results of private benevolence, charity workers distrustful of the efficacy of privately

[1] In 1907 the loss incurred in operating this ferry was $723,208; whereas the total of taxes levied on the borough of Richmond was $893,997.97.

[2] John C. Trautwine, Jr., Proceedings of the Engineers' Club of Philadelphia, vol. xxv, no. 2; April, 1908.

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organized charity, political reformers[1] who believe that the interest of the electorate in problems of efficient municipal administration, now unfortunately slight, will be stimulated by greatly increasing the complexity of these problems—these are among the protagonists of the movement.

The form that their altruism has taken is peculiar to the times. Gustav Le Bon, in the brilliant preface to his *Psychology of Socialism*, says:

> Feeble in the extreme when it attempts to reason and to support itself by economic arguments, [socialism] is on the contrary extremely powerful when it remains in the region of dreams, affirmations and chimerical promises, and if it were never to issue thence it would become even more redoubtable. . . . The present age is one of those periods of transition in which the old beliefs have lost their empire, while those which must replace the old are not yet established. . . . Socialism, whose dream is to substitute itself for the ancient faiths, proposes but a very low ideal, and to establish it appeals but to sentiments lower still. What, in effect, does it promise, more than merely our daily bread, and that at the price of hard labor? With what lever does it seek to raise the soul? With the sentiments of envy and hatred which it creates in the hearts of multitudes? To the crowd no longer satisfied with political and civic equality, it proposes equality of condition, without dreaming that social inequalities are born of those natural inequalities that man has always been powerless to change. It would seem that beliefs founded on so feeble an ideal, on sentiments so little elevated, could have but few chances of propagating themselves. However, they do propagate themselves, for man possesses the marvelous faculty of transforming things to the liking of his desires, of regarding them only through that magical prism of the thoughts and sentiments which show us the world as we wish it to be. Each, at the bidding of his dreams, his ambitions, his hopes, perceives in socialism what the founders of the new faith never dreamed of putting into it. In socialism, the priest perceives the universal extension of charity and dreams of charity while he forgets the altar. The slave, bowed in his painful labor, catches a confused glimpse of the shining paradise where he, in his turn, will be loaded with good things. The enormous legion of the discontented—and who is not of it today?—hopes through the triumph

[1] *Cf.* R. Fulton Cutting, "Public Ownership and the Social Conscience," *Municipal Affairs*, March, 1900.

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of socialism for the amelioration of its destiny. It is the sum of all these dreams, all these discontents, all these hopes, that endows the new faith with its incontestable power.

The religious development of the day known as "Christian socialism" preaches to the efficient or fortunate few self-denial, economic asceticism and altruism, while it encourages in the inefficient or less fortunate many the spirit of unrest, envy and greed. It is not clear how the sum total of spiritual progress in the human race is to be thereby increased.[1]

The extent to which modern philanthropy is tending to merge into municipal socialism is well illustrated by an article recently written by Dr. Edward T. Devine, entitled "The New View of Charity,"[2] which may be taken as typically representative of the opinions of a large number of social workers. According to this "new view," the relief of distress should no longer be the principal purpose of charity. Organized philanthropic effort should on the contrary aim chiefly to remove the social causes of misery, dependence and crime, such as bad housing conditions, inadequate or ineffective education, conditions affecting the health of the community, a low standard of living—in short, most of the concomitant circumstances of poverty. Charity, it is claimed, instead of being palliative, should be preventive. This new view of charity is not quite interchangeable with the idea of municipal socialism, because it looks also to a number of social conditions which are usually dealt with by the state and national governments, such as shorter hours of work, child-labor, industrial insurance, employers' liability and the like. In so far, also, as municipal socialism contemplates public operation of utilities promising advantages to the community of a purely economic character, it may be said to be unconnected with the new view. At the same time, the new view contributes energetically to the development of municipal socialism, and the use of the term "charity" as applied to such a concept really involves a somewhat radical reconstruction of the popular understanding of

[1] *Cf.* W. H. Mallock, A Critical Examination of Socialism, p. 163.

[2] *Atlantic Monthly*, December, 1908.

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that word. Believing that distress and crime are more largely the results of social environment than of defective character, the advocates of this view propose to direct their efforts towards "the changing of adverse social conditions," which, as Dr. Devine explains, "can be accomplished only by the resources of legislation, of taxation, of large expenditure, or by changes in our educational system, or in our penal system, or in our taxing system, or even in our industrial system." The expression of this view, coming from such a source, is all the more impressive, since Dr. Devine is well known as naturally conservative in disposition, as a believer in industrialism, and as opposed to socialistic theories of government.

When Le Bon wrote the sentences quoted above, he was thinking of socialism as an ideal system, to be substituted for the existing order by revolution; but his assertion that the strength of socialism lies in the enthusiasm of its quasi-religious appeal is equally applicable to the narrower but more practical manifestations of municipal socialism. We cannot, however, dismiss as chimerical the promises of a nearer approach to "equality of condition" which are held out by municipal socialism, for something has already been accomplished in that direction with the assent of, or at least without serious protest from, those who have paid to secure it, and in view of the increasing opportunities for gratifying the sentiment of altruism which growing wealth confers upon society it is obvious that still further progress is not only possible but probable. As communities grow in wealth and develop in civilization, the truths of those purely economic laws which are founded on the greed of that primitive abstraction, the "economic man," stand in constantly increasing need of qualification. As Professor Ross says:

> Government is not the sphere of operation of characteristic forces, but the meeting-place of nearly all the kinds of forces present in social life. "The functions of the state," it has well been remarked, "are coëxtensive with human interests." This is true only because the more important desires—greed, vanity, sympathy with the weak, love of truth, passion for homogeneity, craving for justice—make themselves felt in moulding the policy of government.

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The accumulation of wealth is regarded by normal men as a means and not an end. The purposes to which wealth is applied or for which it is consumed vary according to the ideals of society in its different stages. When the more primitive problems of self-support are solved and the gratification of the animal pleasures becomes easier, the growth of sympathy is fostered and the exercise of it encouraged. With increasing wealth the purely selfish interest of many develops into a broader social interest, and one of the manifestations of this social interest is the desire to render aid to the weak and unfortunate. Wealth itself has an exchange value, and with its increase comes a decline in that value and an increase in the price which the wealthy are ready to pay for social betterment.

What concerns us now, therefore, is to ascertain, if possible, whether this movement which we call municipal socialism can really continue until it shall result, in the language of Mr. Shaw, in "the practical abrogation of property," and if not, what causes will check it and at what stage of its progress.

Municipal socialism aims at the municipalization of two kinds of human effort, the one economic, the other humanitarian, which, though not wholly unrelated, are in the main distinct and to some extent even antagonistic to each other: (1) public ownership, operation or control of industrial functions, especially those which are monopolistic in character, such as water supply, lighting, street railways and telephone service; and (2) philanthropic improvement of social conditions. Municipal activity in the field of economic effort, however strongly it may tempt us to tax one class in a community for the benefit of another, is not necessarily incompatible with improved efficiency and economic profit. In so far as these results may safely be predicted, the movement towards municipal socialism need cause no concern. If a city can supply its inhabitants with gas or electric light of a better quality or at cheaper rates than a private monopoly, and if the prices charged are high enough to render the enterprise self-sustaining, so that it is unnecessary to resort to taxation, no injustice is done to any one, and certainly there is no resulting threat of "abrogation of property."

Our inquiry need be directed, then, only to those phases of

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municipal socialism, either predatory or eleemosynary which are economically unprofitable, or which tend in any excessive degree to tax one man for the benefit of another.

Without further generalization, let us examine briefly the actual conditions in the city of New York. The phenomena of municipal socialism do not exhibit themselves equally in different cities, and it is of course open to any one to object that New York is not thoroughly typical in this respect; but it is not believed that any qualifications that may be necessary to meet such objections will prove material. New York is fairly typical. In some respects, notably in the services rendered at public expense by its health department and in education, it is foremost among the great cities of the world; in other respects, as in municipal operation of transportation and lighting utilities, it has been more conservative. The table printed below shows the comparative expenditures and debts of New York and other leading American and European cities, according to the classification of Professor Fairlie.[1] In the special report of the

[1] Charles E. Merriam and John A. Fairlie, Revenue Systems of American and Foreign Cities, a report to the City Club of Chicago, 1906. The statistics are mostly of the year 1903 for American cities and of the years 1901–02 for European cities. Comparisons drawn therefrom fail materially, therefore, in exhibiting present conditions. Expenditure and debt have increased much more rapidly in New York since 1903 than in any other city. The New York budget for 1909 shows an increase of 61 per cent over that of 1903 and in the same period the net funded debt has increased over 92 per cent.

EXPENDITURES	NEW YORK	CHICAGO	PHILADELPHIA	ST. LOUIS
Total general	$74,624,956	$23,256,115	$18,258,543	$9,093,645
" ordinary	105,505,616	30,208,693	25,049,383	11,126,762
" extraordinary	64,422,050	12,075,545	13,369,332	5,364,123
Grand total	169,927,666	42,284,238	38,418,715	16,490,885
Per capita, general	20.08	12.03	13.35	14.52
" ordinary	28.39	15.63	18.03	18.17
Total debt	381,687,512	49,901,932	50,654,640	22,579,917
Per capita	102.68	25.82	37.04	36.86

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Census Bureau on statistics of cities having a population of over 30,000, the net indebtedness per capita of the five leading American cities for the year 1905 is stated as follows: New York, $118.91; Chicago, $33.33; Philadelphia, $44.80; St. Louis, $32.15; Boston, $113.34.[1] In the ten years from January 1, 1898, to January 1, 1908, the New York City budget for municipal purposes increased over 100 per cent: from $70,175,896.84 to $140,449,731.39. During the same period the net funded debt increased 131 per cent: from $232,248,785.89 to $537,577,801.03. The recent publication of these[2] and other statistics has led to considerable discussion and to the awakening of a wider public interest than has hitherto been manifested in the the important question of municipal expenditure.

Comparative statistics of cities are notoriously misleading. Expenditures are variously classified, revenue systems differ materially, and the divisions of expenses between cities and state and national governments are very dissimilar. Thus in

[1] Here, as in the subjoined table, the extreme variation between the city of Boston as an economic unit and the same city as an area of municipal government renders the statistics of Boston misleading for purposes of comparison with cities where there is a comparatively close concordance between these two different concepts of the word city. *Cf.* Edgar J. Levey, "City Expenditures and Population," in the *Real Estate Record and Guide*, December 5, 1908.

[2] Edgar J. Levey, New York City's Progress towards Bankruptcy (Privately printed, New York, 1908).

Boston	London	Paris	Berlin	Vienna	Glasgow
$15,085,346	$73,710,000	$45,385,000	$26,784,000	$20,164,000	$7,850,000
25,141,812	95,319,000	69,980,000	38,668,000	29,314,000	19,255,000
8,827,482	39,071,000	10,630,000	10,897,000	28,912,000	6,496,000
33,969,294	134,390,000	80,610,000	49,565,000	58,226,000	25,751,000
25.37	16.17	17.08	14.24	12.24	8.61
42.45	20.47	26.31	20.35	17.24	21.11
92,096,663	335,492,000	459,530,000	59,230,000	97,399,000	78,620,000
154.88	73.57	172.82	31.36	58.02	86.20

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DEBT AND EXPENDITURES OF NEW YORK CITY: 1900–1908

YEAR	POPULATION [1]	FUNDED DEBT [3]	NEW CORPORATE STOCK ISSUES [5]	APPROPRIATIONS FOR CITY PURPOSES [6]	NET FUNDED DEBT PER CAPITA
1900	3,499,516	$277,696,744	$32,676,012	$79,201,763	$79.35
1901	3,609,386	298,873,969	36,312,315	87,475,844	82.80
1902	3,723,044	311,772,211	29,469,760	89,695,395	83.74
1903	3,840,713	334,176,991	40,520,419	92,845,809	87.01
1904	3,962,371	400,945,164	78,428,337	102,406,718	101.18
1905	4,068,275	430,477,000	37,960,934	105,058,220	105.81
1906	4,218,577	474,555,905	54,217,268	111,750,497	112.49
1907	4,353,464	537,577,801	71,345,195	122,756,666	123.48
1908	4,490,714 [2]	597,934,849 [4]	. .	135,474,403	133.15

[1] Health Department estimate for December 31 of each year. [2] Estimate for December 1, 1908. [3] On December 31 of each year. [4] December 1, 1908.

[5] During the five years 1898–1902, inclusive, new corporate stock (funded debt) issues amounted to $146,653,270.78; during the next five years 1903–1907, inclusive, to $282,472,155.06—annual averages of about 29 and 56 millions, respectively.

[6] Appropriations for state and county purposes omitted. For some of the earlier years state taxes were levied through the city or county budgets; later, through taxes collected directly by the state, of which, of course, the tax-payers of New York City contribute their proportion, though the amount thereof no longer appears in the budget. No such difficulty arises in comparing appropriations for purely municipal purposes.

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European countries the national governments contribute largely to the funds for municipal purposes. Boston, besides paying for its own hospital for the insane, included in its budget (1907–08) about two and a half millions for payments to the commonwealth of Massachusetts. New York, on the other hand, is relieved by the state of the care of its insane and pays from its budget practically nothing in the way of state taxes. The citizens of New York, of course, pay their full proportion of the state expenses, but these do not appear in the New York budget and the taxes necessary therefor are not levied through the local authorities. But while comparative municipal statistics are misleading, correct conclusions may be drawn from statistics of single cities as regards growth of debt and of expenditures. Such statistics for New York City are presented on the preceding page.

For the vast increase of debt and taxation in New York City various causes may be assigned. Those which seem to the writer the principal causes may be stated as follows:

(1) Inefficiency in administration due to the personal incompetence of officials. Waste from ignorance or carelessness, which comes under this head, is an important factor in all large American cities. The remedy is of course political.

(2) Inefficiency due to defective administrative methods. While good methods are less important than good men, they are nevertheless essential to economical government. Capable officials will accomplish fairly efficient results with antiquated methods of administration, just as a clever workman will manage to get along with old-fashioned tools; whereas the best administrative methods devisable will be of no avail if their application is entrusted to incompetents. Strictly speaking, this cause of waste is a result of inefficiency due to personal incompetence, since the right men in office should have intelligence and energy enough to devise and install proper methods.

(3) Dishonesty. This is closely connected, at least, with the two foregoing causes. Its prevalence, extent and importance is often exaggerated in public opinion. The cure is obvious.

(4) Indifference of the electorate to problems of municipal government. This is probably more noticeable in New York

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than in any other large city in the world, and, as a cause, is contributory to all others. The difficulties of popular education are vastly greater in municipal government than in national affairs. In national politics occasional decisions are required upon issues more or less clearly defined. In municipal government, constant attention must be directed to the numberless problems of what is practically the management of a great and complicated business enterprise.

(5) The consolidation of the present boroughs into the Greater New York. This change made it appear necessary to unite the several boroughs physically as well as politically, by proper transportation facilities, and to spend large sums of money in bringing the outlying boroughs up to an urban standard in many matters which had been neglected, as, for example, in the matter of street paving. Under this head it should also be noted that the salaries of city employees living in the semi-rural boroughs were "equalized," that is, they were brought up to the highest standard prevailing in Manhattan, regardless of differences in rent and in the general cost of living. While this cause of increased expenditure must be regarded as exceptional, and its force is now largely spent, it should be remarked that the atmosphere of extravagance which it engendered is still present. Just as an individual finds it difficult to reduce expenses after he has become accustomed to extravagant living, so city officials, having become accustomed to bond issues of sixty or seventy millions a year, now "think in large figures" and have to some extent lost their appreciation of the value of money.

(6) Expansion in the field of municipal activities. Under this head come all the varied phenomena of municipal socialism, and here we are brought face to face with the problem which seems destined to become of supreme importance in the future history of New York and of other cities, and which it is the object of this article to discuss.

Brief reference has already been made to the great increase in debt and taxation which has marked the development of New York since consolidation—an increase altogether disproportionate to the city's increase in population. If for a few

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years following consolidation there had been an abnormal increase in expenditures, due to the causes above mentioned, and if expenditure had then become stationary, or had increased only in proportion to the increase of population, there would have been nothing in the situation to arouse apprehension. The statistics of expenditure above presented show, however, that the rate of increase has been much greater in the last five years than during the five years previous. It is this progressive increase which excites alarm. Should the ratio of the recent increase in the budget be maintained for the next ten years, the city would then be facing an annual expenditure of $370,000,000, which would represent a per capita tax of about $54 as against $26.25 in 1908. It is not so much that taxes today are high, though there is much complaint on that score; it is rather the fear of future confiscation of realty holdings, and especially of equities in mortgaged properties, that has aroused genuine anxiety in taxpayers. Let us therefore consider how the further development of municipal socialism will affect the finances of New York City. In doing this we may ignore those elementary protective functions which are always discharged in modern urban communities; we may pass over the fire department, the police, the courts, the correctional institutions, *etc.*, though even in these there is opportunity for vastly increased expenditure; and in considering possible outlays for social betterment we shall confine our attention to the lines of municipal activity to which the city is already in principle committed.

I. *Education.* More than one-quarter of New York's entire budget, exclusive of the debt-service, is now devoted to this purpose. A considerable part of the outlay is for secondary and higher education. Little has been done, however, in the way of technical training. Without departing from principles of government already recognized, trade schools might be established and developed, with the result of almost doubling the cost of public education. Again: it is now a tenet of our government that municipal duty towards children of school-age is not limited to merely offering opportunity for education. Education must be enforced by means of truancy laws, and the physical welfare of the child must receive attention in order

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that he be made receptive to educational influence. Our Board of Health conducts a medical inspection of school children for this purpose. The principle here involved is important. This medical school inspection is at present rather limited; it is capable of almost unlimited expansion and at corresponding cost. Moreover, if disease should be combated as rendering a school child physically unfit to receive educational training, why not also hunger? What is there of intrinsic absurdity in the proposition that the city should feed its scholars? At first it would feed the children of poor parents only; ultimately, of course, all children, since class discrimination would be undemocratic. Moreover, if food is necessary to physical fitness, why not also clothing?

Not long ago the proposition was timidly advanced that, in view of the enormous appropriations required by the Board of Education, New York should adopt the so-called "Denver idea," *i. e.* that it should reduce by half the attendance period of the very young children. It was claimed that not only would this be beneficial to the children themselves, but that the present school capacity would be greatly increased and that an annual saving of five millions of dollars could be effected. Objection was at once raised;[1] it was stated that neither of the above considerations should be regarded; and it was argued, substantially, that the city should be held responsible for the moral welfare of its school children, that they should not be allowed to play in the streets, and that they should be kept away from home as long as possible, since, as most of them lived in tenements, their natural surroundings were unfortunate. It was suggested, however, that the "Denver idea" might be considered after the city had spent some unstated fraction of $25,000,000 in providing recreation centers.

From the foregoing it will appear that if the city were to imitate ancient Sparta, or perhaps it would be better to say the Lilliput of *Gulliver's Travels*, and were to deprive parents of all care and responsibility for their children of school age, it would merely extend, not depart from, principles already accepted. The means of estimating the cost are not at hand.

[1] *Cf.* editorial in *The Evening Post*, November 12, 1908.

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II. *Recreation.* Why should not New York operate or at least give subventions to a municipal orchestra, an opera house and a theatre,[1] as is done in most of the larger cities of continental Europe? The principle was recognized when the city first gave band concerts in the public parks.[2] Paris maintains a municipal race track and appropriates $50,000 a year in prizes for the horse races. If the same thing were done in New York, it might at least be said that a larger number of citizens could enjoy this entertainment than now derive amusement from the $3,000,000 speedway constructed for the benefit of owners of fast trotting-horses. Again, if facilities for athletic sports are to be furnished to pupils in our public schools, and if portions of our parks are to be set apart for tennis, golf and skating, why is not any provision justifiable that may be made for the healthful recreation of the public?

Just as the city's park system is capable of very extensive enlargement, especially in the way of small parks in the densely populated districts, so the public baths, of which we have a few, could be almost indefinitely multiplied.

III. *Street facilities.* The most obvious extension here would be found in street cleaning and especially in snow removal. This last-named function is almost peculiar to New York, but at present snow removal, which is exceedingly expensive, is mainly limited to business thoroughfares. It is easy to conceive that there might be a public demand that the snow should be removed from every city street.

IV. *Charities.* New York appropriated, in 1908, $3,214,146.59 for the department of "Bellevue and Allied Hospitals"; $3,844,150 for its department of Public Charities, and $4,349,489.40 as subsidies to private charitable institutions—a total of $11,407,785.99. The system of poor relief and medical aid in

[1] Urged by Professor James H. Hamilton in the *American Journal of Sociology.*

[2] In *Municipal Affairs*, vol. v, no. 3, Mr. John Martin suggested an elaborate constructive program for the Low administration; and, in referring to this service of municipal music, he urged that it might well be extended to include tunes for the children to dance to, in streets which should be closed to traffic during special hours summer evenings. A more recent article by Mr. Martin, "Social Reconstruction of To-day," *The Atlantic*, September, 1908, is fairly typical of the ideals of municipal socialism.

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New York is conducted in part by the municipality and in part by private benevolence. Contributions from the latter source amount to many millions. If consistency were an inexorable rule of action in city government, the whole of this burden would have to be borne by the municipality. This has already been seriously urged. Mr. R. Fulton Cutting, himself a most generous giver and devoted to philanthropic work, has expressed himself as follows:

> The municipalization of private charities would involve a great additional expense. The millions contributed by the generous few would have to be provided from a general tax levy. The strictest economy in the use of the city's present income would hardly suffice to meet the new requirements; but there is nothing terrible in this. The citizens who now voluntarily support philanthropic institutions can fairly be claimed to represent the highest standard of intelligence and virtue in the community, and they virtually advocate a larger expenditure by it.[1]

Something might be said of the moral effects of drying up the fount of private benevolence in a community by occupying the channels into which the stream of philanthropy most desires to flow; but it is sufficient to remark that the real or supposed superior efficiency of private charitable work has probably been more effectual in maintaining the present system than any desire to avoid higher taxation. Without disturbing private philanthropy in its chosen field, however, there is abundant opportunity for the city to spend larger sums for charitable objects. There is need for more hospitals; larger donations might be made with good results for the care of dependent children; more free municipal lodging houses would find their necessary number of unfortunate occupants; and labor bureaus might be established for the benefit of the unemployed.

V. *Public health.* In this sphere of municipal activity New York is already foremost, if it is not indeed the actual leader of all great cities. But active as is the New York Board of Health and diversified as are its functions, it has but scratched the surface of its field. Without attempting to describe the many ramifications into which the police power of this department

[1] "Public Ownership and the Social Conscience," *Municipal Affairs*, March, 1900.

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might be led in any thorough-going system of prevention of disease, it will be sufficient to refer to what might be done in combating one ailment alone—pulmonary tuberculosis. The prevention of this dread disease depends in very large measure upon improvement of social conditions. It is propagated in poverty. Up to a certain point, medical skill and the diffusion of popular knowledge may succeed in checking its ravages. To go beyond that point and to achieve complete success means simply to raise the standard of living or, in a word, to abolish poverty. To tell the tenement dweller that he needs plenty of fresh air and sunshine, healthful sleeping quarters, warm clothing, an abundance of nutritious food, and that, if the disease has already seized him, he must have complete rest and absence of care, is to make him anxious to observe all these precepts; but how?

VI. *Markets.* New York owns a number of public markets, which from a business point of view are unprofitable. The reason urged for maintaining them at a loss is that their existence tends to reduce the cost of food to such citizens as are able, by reason of proximity, to patronize them. It is doubtful whether there is much truth in this claim; but if the city is justified in losing money in order to provide some of its citizens with cheaper food, by the same token it would be justified in buying food products directly and then selling them at lower prices, or, for that matter, in making free distribution of corn as in ancient Rome.

VII. *Transportation services.* Reference has already been made to the annual loss of about three-quarters of a million dollars incurred by the city in operating the Staten Island ferry. If a ferry is to be run by a municipality at such an enormous loss for the benefit of a small fraction of its citizens, the running of it free of all charge might be said not to differ in principle but only in degree. That this should be done has been earnestly urged by residents of the borough of Richmond; and in support of their plea it is claimed that, as their place of residence is an island and yet an integral part of the city, this ferry, which is the only means of access, should be regarded as a highway. Our streets and highways are free to all, they say,

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and our bridges, which serve the same purpose of inter-borough communication as this ferry, are also treated as highways and are free.

The argument, on principle, is not wholly without weight. But would not such an application, if allowed, lead logically to the furnishing of other kinds of free transportation facilities, notably by municipal purchase and operation of existing street car, elevated and subway lines? Should this ever happen, the more extreme municipal socialists would surely argue that, as people are carried free, so also should property be similarly transported, and a municipal express service would follow. But we are passing now to inferences which, however logical, seem far-fetched to the present generation. Less extreme, however, would be the furnishing of free water, gas and electric light.

The point to be noted is that (except possibly in the cases last referred to) the expansion of social functions which have been mentioned might be accomplished without departing from principles of municipal activity which the city has already recognized. Nothing has been said about industrial functions which have been recognized by other cities. Municipal ownership of cemeteries is common in the continental cities of Europe; municipal pawnshops are general in Belgium, Holland and Germany; municipal savings banks are more important in many European countries than are similar private institutions; commercial banks are owned by certain cities in Russia; a municipal restaurant is maintained by the city of Grenoble in France; the business of fire insurance is directly undertaken by several of the Swiss cantons; and model tenements have been erected by the city of Liverpool. Of these precedents for municipal socialism, of which the list just given is by no means exhaustive, nothing has been said, because New York has not yet undertaken any of these enterprises; but a sufficient number of examples has been given to demonstrate the extent to which the city of New York might become involved in municipal socialism if the sole criterion of its further advance were to be sought in a merely logical or consistent development of ideas already incorporated in its administration and acquiesced in generally by its taxpayers.

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It is most important also to remember that we would not willingly part with the conveniences and advantages of government which we now possess. Up to a certain point taxpayers are quite content to accept the theoretical injustice which taxes one man for the benefit of another. The bachelor does not seriously object to helping to defray the cost of primary education for the children of the city, although he may have doubts about secondary education and may earnestly question the justice of requiring him to aid in paying for another man's collegiate education. Those who are healthy and well-to-do would not abolish the public hospitals, and public sentiment sustains the public aid given for the support of dependent children.

Urban conditions create a solidarity which contains a large measure of altruism—a solidarity, in other words, which on its philanthropic side tends to become a kind of governmental sodality; and the dangers of municipal socialism lie largely in the readiness with which this spirit in the community lends itself to the expansion of municipal functions without due regard to the economic effect. If all the plans for city expenditure which have been outlined above were to be presented at the same time to the voters for acceptance as one grand scheme for social betterment, the plan would undoubtedly be rejected as ensuring municipal bankruptcy. But that is not the manner of their presentation; and when they are encountered one by one the benefits which they promise and the claim that they are justified by accepted precedents render it difficult to oppose them on purely economic grounds. We have seen that up to a certain point taxpayers acquiesce in the progress of municipal socialism. When is the point reached at which they protest? That point is not one which can be accurately fixed; it differs with the varying tempers of different communities; but in a general way it may be said to be reached when taxpayers feel the burden of taxation to be so oppressive that they realize the extent to which they are being taxed without corresponding benefit to themselves. It is reached, to put the same thought more simply, when the size of their tax-bills strains their willingness to contribute to the public good.

The socialistic theory which demands the control of all labor

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and the ownership of all productive property by the state—state socialism, let us call it, to distinguish it from municipal socialism — contemplates (however erroneously) a system grounded on justice, in which each man shall receive, according to his deserts, the fruits of his toil. Such a theory is hopelessly impracticable, since in denying the rights of private ownership it ignores elementary principles of human nature. Municipal socialism, on the other hand, is grounded on injustice, in that it proposes to apply the wealth of the efficient for the benefit of the inefficient. For this very reason it is eminently practical as a political proposition in any democracy where the discontented element of the electorate is in a majority.

State socialism is weak, because it requires a revolutionary overthrow of the existing system of society, and, under normal conditions, the human mind abhors revolutions. Municipal socialism is strong, because it evolves itself in subtle fashion and by gradual steps from a base which has been accepted by society and to which mankind has become accustomed towards a goal whose outlines are vague and obscure.

There is nothing to be gained by the opponents of municipal socialism in shutting their eyes to obvious facts. It is impossible to deny that the stricter ideas of justice between man and man which once prevailed no longer form the basis of our political institutions. Whatever the outcome, modern society has accepted, tacitly if not explicitly, the principle that the strong must assume at least a portion of the burden of the weak and that the privilege of voluntary charity shall be gradually supplanted by the duty of involuntary social service. Herbert Spencer discerned this clearly when he wrote:

> Sympathy, which a generation ago was taking the shape of justice, is relapsing into the shape of generosity; and the generosity is exercised by inflicting injustice. Daily legislation betrays little anxiety that each shall have that which belongs to him, but great anxiety that he shall have that which belongs to somebody else.

How far will this movement reach? Into the realm of prophecy the student of social phenomena may well hesitate to venture. The manifold cross-currents of human life generally lead in un-

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foreseen directions and the far-distant future phases of civilization are hard to forecast. But passing from such generalities to the more practical consideration of present conditions, it should prove feasible to describe some of the obstacles which municipal socialism will have to surmount.

In the case of New York City, these obstacles are twofold: (1) an artificial obstacle, *viz.* the limitation placed by the state constitution on the extent of taxation in municipalities, and (2) a natural obstacle, *viz.* the far-reaching economic effects which extremely oppressive taxation would have upon the industrial welfare of the municipality, and which would naturally lead to reaction.

Section 10 of article 8 of the New York state constitution provides that

> the amount hereafter to be raised by tax for county or city purposes in any county containing a city of over one hundred thousand inhabitants, or any such city of this state, in addition to providing for the principal and interest of existing debt, shall not in the aggregate exceed in any one year two per centum of the assessed valuation of the real and personal estate of such county or city, to be ascertained as prescribed in this section in respect to county or city debt.

This is a very liberal provision; and in view of the large appropriations necessary in New York for the debt-service ($40,454,772.86 in 1908), which are excepted from computation, taxation might become highly oppressive without exceeding its limitations. Without contravening the constitution, $67,501,260.34 of additional taxes might have been imposed in 1908, or 58 per cent more than the actual levy.

As the constitutional limit is closely approached—and present tendencies do not indicate a far-distant postponement of that time—the pressure for additional revenue is likely first to operate in over-assessing real estate, up to the point (beyond 100 per cent of real value) where review of assessments by writs of *certiorari* will become general. If the over-assessment were not too great, the expense of the necessary litigation would probably deter most taxpayers from contesting assessments, since the cost would prove greater than the relief which the

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courts could give. This protection, however, which the taxpayer now has in the courts, is not derived from the constitution; it is found only in the statutory law;[1] and it is not to be doubted that a community really intent upon spending more money would be able to secure the repeal of the statute in question. With its repeal, the constitutional provision itself might become practically valueless; since in the absence of statutory laws and as long as all property were overvalued in equal degree, it is uncertain whether the courts would restrain even radical over-assessing of real estate. Before this change in the law became necessary, however, it is likely that liberal use would be made of a device which has been employed to a limited extent in the past—the device of greatly increasing assessments of personal property regardless of the collectibility of such taxes.

Finally, it may be said that the experience of recent years has shown that the state constitution itself is rather a frail bulwark of conservatism. It is easily amended; its provisions can at the most delay for a few years only[2] the realization of a popular demand; and the public has shown at the polls a certain predilection for approving amendments which have received little, if any, previous discussion and consideration.

On the whole, therefore, it may be said that the advance of municipal socialism is not likely to be seriously obstructed by such artificial barriers.

In the economic effects of municipal socialism, then, must be found, if anywhere, the limitations of that movement. The importance of tracing, if possible, the natural results of exceedingly heavy taxation is manifest; since upon them would seem to depend the answer to the question above propounded, *viz.*, whether this movement can really continue until it shall result in "the practical abrogation of property."

History furnishes some aid to such an investigation. A few

[1] Greater New York Charter, sec. 906, allowing writs of *certiorari* "by reason of over valuation."

[2] Constitutional amendments before being submitted to the vote of the people must pass two legislatures having different senates. This generally means two or three years

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suggestive analogies may be found in the conditions which, in the fourth and fifth centuries, led to the ruin of the cities of the empire, and in the effects of excessive taxation in the case of the mediæval Italian cities. Human nature has changed far less than human institutions, and, however different were the conditions of urban life in those days, the same motives which induced men to forsake cities then would influence them now. On the whole, however, the political and industrial conditions which prevailed in the urban communities of the ancient world and of the middle ages were so essentially different from those of our time that it is perhaps better to treat the problems of municipal socialism as though they were wholly new.

The first and the most important matter to determine is: Upon whom will the burden of radically increased taxation fall? Will it be ultimately assumed by the owners of property, who are the direct payers of the taxes, or can it be shifted by them to their tenants? In the latter case can it by further shifting be brought to rest upon the entire community? The answers to these questions are all-important, since it is obvious that the purposes of municipal socialism will be defeated if its cost has to be mainly defrayed by the very class whose interests it is designed to further.

It is impossible within the limits of a single article to consider all the varied manifestations of the laws which govern the shifting and incidence of taxation. It will be sufficient for the moment to look into the working of these laws so far as they affect the system of taxation prevailing in New York City. So large a proportion of the entire municipal revenue of New York is raised by taxes on real estate as to render it hardly necessary to consider other forms of taxation.

In regard to the incidence of taxation on urban real estate economists are in substantial agreement on one point, *viz.*, that so far as the tax is imposed upon buildings it will be shifted to the tenant.[1] Orthodox political economy holds, on the other hand, that the tax, in so far as it is imposed on ground value, cannot be shifted but must be borne by the owner. This doctrine is stated by Professor Seligman as follows:

[1] *Cf.* Seligman, Shifting and Incidence of Taxation (2nd ed.), p. 238.

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The owner who leases his land will always endeavor to get as much as possible for it. The price he gets will, in general, be entirely unaffected by the imposition of a tax. For, since the supply cannot be increased, and since there is no question of cost of production, the change in price will be effected only through a change in the demand. The price, in other words, will be fixed by the degree of marginal utility. Now, if the demand for the site increases to such an extent that the ground rent not only covers the new tax but leaves a profit in addition, the tax cannot be shifted to the lessee. For the price would have to be the same without the tax, since the demand of the lessees is not affected by a tax on the lessor. The ground owner will simply get less net return than he would have obtained had no tax been imposed; that is, the tax will fall on him.[1]

The English doctrine of "economic rent" grew out of a consideration of agricultural rents. The general principles of economic rent were considered to apply to city lots on the theory that the price is determined by the superiority of location. To this no objection could be made, were it not that there has been superimposed upon this principle the theory that city real estate possesses a so-called "monopoly value." But this is a mere abstraction. As a matter of fact there is no such thing as true monopoly value in urban real estate. From the cheapest suburban lots appropriate for workingmen's homes to the choicest corners in the heart of the financial district there is a gradual shading of values which makes interchangeability of use a matter of almost daily experience in large cities. Assuming that a particular city is growing, it will be found that on the outskirts of the financial district, for example, there are plenty of sites (their number increasing geometrically as the radius of the circle is lengthened) occupied for other than financial uses, which, as demand increases and rents rise, will—possibly with some economic friction, such as the necessity for demolishing old and unsuitable buildings—be brought into competition with the original sites. The same is true, *a fortiori*, of sites for dwelling houses.

The statement, therefore, that "the supply cannot be increased" would seem to be a theoretical assumption rather than

[1] Seligman, *op. cit.*, p. 236.

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a fact. Supply as well as demand must be reckoned with in the case of site value as well as in the case of buildings. Moreover, the theory of the incidence of taxation on urban ground owners was originally worked out with reference to European conditions, where the owner of the site makes leases with reserved ground rents to another individual who builds upon the ground and either occupies the building himself or sublets it. This situation, while not unknown, is exceptional in New York, where the owner of the site is usually the owner of the building. Under these conditions it will not be found in practice that the total tax will readily divide itself, as in theory it should, into a tax on the site which cannot be shifted, and a tax on the building which can be.[1] In actual practice a number of qualifying

[1] Investment in real estate is not a law unto itself. The income which real estate has to yield to capital is fixed in competition with other forms of investment, due regard being had to such constituent factors as security, future enhancement or depreciation in values *etc.* Bearing this important fact in mind, let us now see what effect under actual New York conditions increase in taxation has upon rentals—making the attempt to separate site values from building values. Suppose that the income from ground rent, as fixed in competition with other forms of investment and taking into account the possibility of future enhancement of values, is four per cent. Let us also assume the proper income similarly to be derived from investment in buildings, which have no such possibility of future enhancement but on the contrary are subject to depreciation from wear and tear, should be six per cent. Let us suppose taxes to be one per cent on actual values. Mr. A. owns a plot of ground worth under these conditions $50,000, upon which there has been erected a building also worth $50,000. His investment works out as follows:

Land value	$50,000
Building value	50,000
Total value	$100,000
Gross rental	9,000
Expenses of maintenance and operation	3,000
Net rental without deducting taxes	$6,000
Ground rent ($2,000) and tax on site ($500)	2,500
Available for building rent and tax on building	$3,500
Tax on building	500
Leaving six per cent on value of building	$3,000

Mr. B. owns a vacant plot of ground which is suitable for the erection of an exactly similar building but which, owing to its inferior location, cannot command such large rents. He estimates its value at $30,000 and is willing to accept four per cent

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and conflicting conditions come into play, among which may be mentioned (1) immobility of invested capital, (2) long leases at fixed rentals and the custom of requiring the tenant to pay taxes, (3) varying conditions in the building trades and varying supply of capital for building loans, and (4) the centrifugal

net ground rent on this basis. On the assumption that this land is really worth $30,000, the gross rental which the land alone should obtain would be $1,200 plus the tax of $300 on the site, or $1,500. The gross rental which the land should obtain, when improved with a $50,000 building similar to A's, would be the same as A's property less the difference between the gross rentals of the two sites, or $9,000 less $1,000, or $8,000.

Let us now see what the effect of taxation will be on this business proposition, assuming (1) that the taxes are one per cent on actual value, as in A's case; (2) that the taxes were doubled or made two per cent, and (3) that no taxes at all were imposed.

	Case 1	*Case 2*	*Case 3*
Land	$30,000	$25,000	$37,500
Building value	50,000	50,000	50,000
Total value	$80,000	$75,000	$87,500
Gross rental	$8,000	$8,000	$8,000
Maintenance and operation	3,000	3,000	3,000
	$5,000	$5,000	$5,000
Tax on site	300	500	
	$4,700	$4,500	$5,000
Net ground rent	1,200	1,000	1,500
	$3,500	$3,500	$3,500
Tax on building	500	1,000	
Income from building	$3,000	$2,500	$3,500
	or six per cent	or five per cent	or seven per cent

In case 1 the plot would be improved, because B's lessee could get six per cent on the cost of the building. In cases 2 and 3, we have voluntarily, and to escape unnecessary argument, sacrificed part of our case by adopting the extreme single-tax theory, that increased taxes on ground immediately bring about a corresponding reduction of ground value, and that, in like manner, decreased taxes serve to increase ground values. The changes in value of B's ground, as stated in the illustrations, in accordance with this theory, are obtainable by a simple mathematical formula. This theory of the single-taxers might be regarded as true if all buyers and sellers regarded the new tax as irrevocably permanent. Under ordinary circumstances, the predicated result would not follow; and to the extent to which it would prove false our illustrations would be correspondingly strengthened. However, even with this much granted, it will be seen that in case 2 building would be impossible, and that in case 3 building would be so profitable that not only B's land but other vacant land inferior

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and centripetal forces of racial and family ties in old and newly formed tenement districts.

It may be admitted with some qualification that the owner of vacant land cannot shift the tax; it may be admitted, also, that a large fraction of that portion of taxation which falls on the

to it would be immediately improved. In case 2, where taxes have been doubled and new building operations checked, the effect in a growing city would be that supply would remain constant while demand was increasing. Rents therefore would continue to rise (thereby shifting an increasing part of the additional tax burden upon the tenants) until they reached that point where new building operations could be resumed. In case 3, where we assume a total absence of taxation, competitive building would be so extensive that rents would fall. There is apparently, therefore, some fallacy in the economic theory that a ground tax cannot be shifted by the landlord, since (as the theory runs) "if the tax were to be suddenly abolished, he would nevertheless be able to extort the same rent, since the ground rent is fixed solely by the demand of the occupiers." The fallacy lies in the economic fetich of "monopoly value" and in disregarding the existence of competitive supply. It is not to be denied, of course, that in case 2 a considerable part of the loss due to increased taxes would fall on the ground owner during the period he was forced to keep his ground vacant. Advocates of the "single tax" point to this fact, and they reason that the heavier the ground tax the more anxious the owner will be either to improve his land immediately and obtain such income as he can or else to sell at a loss and permit someone else to improve the land. This idea, as applied to actual conditions of taxation in New York, while partly true is also partly fallacious, because it ignores one element of human nature. No class of property owners are so tenacious as owners of vacant real property, especially in cities. In years of great depression speculators are occasionally obliged to sacrifice their holdings; but as a rule the owner of vacant property will continue to hold it vacant for long periods of time, if necessary, rather than sell it at a loss. This trait is so wide-spread and so universally recognized that it cannot be ignored in dealing with actual conditions. Even in cities like New York, where land values increase rapidly, immense losses have been sustained by obstinate owners of vacant land. Whether this disposition on the part of owners of vacant property, born of hope and faith in urban land values and maintained in spite of innumerable discouragements and disappointments, would be supplanted by a feeling of hopelessness if confronted by a thoroughgoing application of single-tax theories, it is not necessary now to consider, since we are dealing only with existing systems of taxation.

It is far from true that all land held vacant or with inadequate improvements is held merely for speculative resale. Owners of such land often anticipate the city's growth by building temporary "taxpayers" or by erecting permanent structures from which no adequate income can be derived for a number of years. The latter course, particularly, is encouraged by low taxes; and the more it is pursued the greater becomes the supply of improved properties and the greater the restraint on increasing rents.

There is still another factor in the prevailing economic theory which is found to lose much of its weight when tested in the crucible of actual experience, *viz.*, the doctrine of maximum rent. Owners of land do not in actual practice succeed in getting the last available dollar of rent out of their properties. Landlords either manage their properties themselves or place them in the hands of agents. When landlords are

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site value of improved property in one ownership cannot be shifted. But even then the incidence of the whole real-estate tax will be found to be very largely on the tenant.[1]

Out of a total assessed valuation in 1908 of $6,141,500,119 (excluding assessments on corporations and special franchises), $3,843,165,597, or about three-fifths, represented the value of the site and $2,298,334,522, or about two-fifths, the value of the buildings. How much of the site tax is in fact shifted to tenants may be a matter for conjecture only, but under the

wealthy, addicted to a life of ease and unwilling closely to follow up changing business conditions, they are especially likely to employ agents. Such owners become accustomed to a certain net rental and, so long as they obtain this, they remain content. Under these circumstances the agents, who are paid generally by commission on the rentals collected, are prone to disturb renting conditions as little as possible. They have little to gain by extreme zeal in increasing rents whenever opportunity offers, and they have much to lose in taking a chance of causing tenants to leave and having a number of vacant buildings on their hands. The same is true in the smaller number of instances in which wealthy landlords manage their own properties. When taxes are materially increased, however, so that the net income to which the owner has become accustomed can no longer be obtained at the old rentals, there arises an active impulse to raise rents.

No better illustration can be given of the way in which increased rents follow increased taxes than the so-called "rent-war" which occurred not long ago in the district east of the Bowery on Manhattan Island. The landlords here were, as a class, not wealthy and owned comparatively slender equities in heavily mortgaged properties. As a rule, they lived in the tenements, knew all the tenants personally and themselves collected the rents. No keener class of landlords could well be imagined. Owing to racial causes, the lower East Side on Manhattan Island comes about as near to realizing the theorist's idea of monopoly value in land as any district that can be named. Here, if anywhere, it would be thought, would be found a situation where the last penny of rent was at all times being exacted from tenants. Yet when there came a substantial increase in taxation, rents were advanced throughout this district with practical unanimity. The landlords—owners, as has been said, of comparatively small equities in heavily mortgaged properties—were obliged to do this or lose their investments. This rise in rents happened to coincide with an increasing business depression. A "rent-strike" was organized, followed by considerable public disorder; tenants refused to pay any rents, and the district courts were clogged with ejectment cases. As the landlords had no alternative but to remain steadfast in their demands, the rent-strike ended in utter failure. Here, then, was a demonstration of the way in which increased taxes bring increased rents and also a demonstration of the fact that the economic theory of maximum rent is seldom realized in actual experience. It might be realized if all such landlords were banded together in one enormous trust, which would dictate such common action as adventitious circumstances decreed in this instance; but such combination seems improbable.

[1] This is clearly recognized by Professor Seligman, *op. cit.*, p. 246.

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practical conditions which prevail it seems safe to say that a major part at least of the total burden falls upon the rentpayers and a minor part upon the landowners. If from the total of the "site-assessment" all vacant property were excluded and the inquiry were limited to improved properties (which with unimportant exceptions are in cities the only properties for which rent is paid at all), it would be found that the rentpayers assume a far greater portion of the burden of the entire tax than the landowners.

The answer to the first question therefore is that, while the burdens of oppressive taxation would fall upon property owners far more heavily than upon any other one class, the price of municipal socialism will be paid chiefly by the community at large. Recognition of this fact, however, will, it may be assumed, find lodgment but slowly in the minds of the electorate;[1] and it seems probable that municipal socialism will for a time continue its progress unchecked by considerations of self-interest on the part of those who pay its cost. What, then, will be its general economic effect on the community?

Great cities maintain their commercial and industrial supremacy not only in competition with each other but also in competition with small towns and rural life. The "drift to the cities," of which we hear so much, is partly a social but mainly an economic phenomenon. People move from the country to the

[1] As Mr. Milo Roy Maltbie says: "Our tax systems are such as to make it appear that the burdens of government are borne by the propertied classes. They do, indeed, nominally pay the taxes levied; but in reality these are shifted until, according to the laws of incidence of taxation, the burden finally rests in most instances upon those who apparently pay no taxes but who actually do pay through increased rents and cost of commodities. Thus the workingman, who knows little about shifting and incidence and who seldom stops to consider how and how far he is paying the cost of government, sees little benefit to be derived from a more economical administration, but much to be gained from increased governmental expenditures, high salaries and higher wages, which increase the demand for labor and the reward which labor receives. Doubtless a system of taxation whereby the consumer would be made to pay taxes in the first instance and whereby increased governmental expenditures would be immediately reflected in the increased price of commodities—if it were possible to devise such a system—would produce a greater interest in governmental finance. Indeed, the system of taxation explains to a considerable extent the intelligent interest and watchfulness which characterize the English citizen." "City and State Expenditures," *Municipal Affairs*, December, 1900.

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cities partly because they believe that living conditions in the latter offer greater opportunities for happiness, and partly because they believe that the mere problem of self-support is easier. In the language of economists, the "consumers' rent" is greater. Writers on social topics deplore this tendency, and in the vain effort to stem the tide advocates of "the simple life" never tire of depicting the advantages of the country.[1] But the movement continues, and many and dire are the predictions of the depopulation of the rural districts and of the resultant mischiefs. It does not appear, however, that due attention has been paid to the fact that, in so far as municipal socialism succeeds in offering to the substratum of city populations social benefits without cost, it nourishes and assists this very movement which social philosophers so deeply deplore.[2] The greater the social inducements offered, the more rapidly will the cities increase in population at the expense of the country and the smaller towns; and as urban congestion is thus increased the greater will be the necessity that municipal socialism shall multiply those expenditures which are peculiar to it.[3] Thus it will be seen that as one movement advances the other must keep pace with it, so that this yoked team is drawing us towards the point where all will live in cities and none will be left to till the fields. That this point should ever be attained is of course an economic impossibility; and the same reasons which make such an extreme result impossible will serve to indicate why a less extreme progress along these lines will find its natural limitations in economic laws.

We have seen that the burdens of extremely high taxation

[1] *Cf.* Adna F. Weber, The Growth of Cities, chap. viii. Henry George likens city growth to a wen or tumor which, drawing the wholesome juice of the body into its vortex, impoverishes all other parts of the frame. Social Problems, p. 317.

[2] Mr. Weber does suggest that "perhaps some of the many gratuities (such as hospitals and medical service) in cities might be restricted with advantage." *Ibid.*, p. 457.

[3] Students of Roman history will remember how the unhealthy growth of that city at the expense of the agricultural districts was fostered by the *lex frumentaria* of Caius Gracchus, which provided for the public sale of wheat at ridiculously low prices, and how this law was subsequently improved upon by a law of Clodius which provided for the free distribution of corn. For the consequences of the latter policy, *cf.* Ferrero, Greatness and Decline of Rome, vol. i., p. 300.

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must be borne, for the most part, by the community at large. Under ordinary conditions,[1] such as prevail in most cities, owners of land can shift the larger part of the burdens of taxation upon tenants. Not only are the results of this shifting felt in increased rents of dwelling properties, including tenements,[2] but also in the rents paid by occupiers of business properties, especially in the retail trades. Certain modifications of this effect on wholesale business buildings will be noted hereafter. Retail tradesmen will inevitably charge their additional rentals to consumers, and the price of provisions, clothing and other necessaries of life will increase. Such articles must be purchased mainly in a home market. The luxuries of life will also cost more, although here there is the modifying factor that the wealthy are better able to seek a cheaper market for such commodities.

The inevitable result of this generally advanced cost of living must be increased wages—an increase which will not operate to the advantage of labor, since the purchasing power of wages will not increase, but which will operate most adversely to the general industrial welfare of the city, which must manufacture and sell its products in competition with other localities where productive costs are not so high. As a result of the increases of rents and wages which have occurred in New York in the past we have already witnessed the enforced removal of factories from Manhattan Island, first to the outlying boroughs and to the New Jersey suburbs, then later to localities widely removed from metropolitan influences.[3] Such a phenomenon would

[1] We are not considering the economic effects of the "single tax," which would raise a substantially different set of problems.

[2] High rents in a city, by adding to the laborer's cost of living, tend to counterbalance one of the most important advantages to him of urban life, *i. e.*, lower prices of staples; and as rents continue to increase his actual wages will become lower than they would be in the country. Another effect of high rents is to aggravate a most unfortunate practice among tenement dwellers, that of taking in lodgers, and generally to add to that overcrowding which it is the purpose of our tenement-house laws to prevent.

[3] The writer, having had his attention called to a district in New York which has recently witnessed a wholesale exodus of manufacturing plants, made an attempt to investigate the industrial causes thereof. Five of these manufacturing concerns were large and important, employing together over three thousand hands. In four cases it

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be much more marked under the future conditions which are here assumed; and its tendency would be to lower real-estate values, withdraw from the city important fractions of its efficient laboring population, diminish the city's industrial output and reduce taxable wealth.[1]

Such would be the effects in manufacturing. A similar result would be entailed in the case of wholesale business, because here the home market is much less secure than in retail trades. Buyers from wholesalers will even now make their purchases in Chicago, Philadelphia and other cities at comparatively slight concessions in price. As wholesale business houses could and would move to other cities, rents of the buildings they occupy could not be raised to offset increased taxation, and a considerable portion of this loss could not be shifted by the landlords. The result would be a shrinkage of taxable values. Even more marked would be the effect on commercial activities. The railway differential against the port of New York has, in spite of the many advantages which the latter possesses, had the effect in recent years of aiding the growth of competing cities, so that their trade has increased in much larger ratio than that of New York. How much more marked, then, would be the effects of

was found that taxation, while not the determining cause, was a contributing factor. Other causes, such as inadequate shipping facilities and especially the high cost of trucking, taken in connection with high taxation and the prospect of its further increase, were deemed to outweigh the loss of a superior labor market and the cost of moving. Four of the concerns moved to New Jersey and one to another borough of the city.

In another case, where also the question of taxation was considered important, a manufacturing establishment has determined to move from New York, although the mere cost of moving will exceed $200,000. This cost of moving is undoubtedly an element of "economic friction" which tends to keep factories where they are until the disadvantages of their location become very pronounced. But no such consideration can be said to affect business judgment when the question arises where to establish a new plant, and here the effect of even slightly excessive taxation may easily prove to be the determining factor. The check to new growth will therefore be felt before a loss is experienced from the removal of existing industries.

[1] The great cities of modern times have grown as the result of economic causes and not for the purpose of securing social benefits. The latter have been incidental effects rather than causes. If cities were not superior agencies for the economic production of wealth they would never have grown as they have; and should this superiority disappear, their decay would be imminent.

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such conditions as we have been considering! The play of commerce is in a free field where handicaps tell for their full weight.

Thus far we have treated of the effects of extreme taxation on New York City under the assumption that its competitors will be less heavily burdened. If it be assumed that municipal socialism is to march forward with equal strides in other cities, a corresponding modification must be made in our conclusions; though there would still remain the important—and under these conditions the increasing—competition of the small towns. A general and uniform development of municipal socialism is, however, extremely unlikely, and to render our conclusions wholly invalid, it would be necessary to imagine practically the whole world, China included, committed to socialistic principles. So long as any substantial part of it clings to the more obvious advantages of modern industrialism, so long must we keep at least within hailing distance of the general line of social movement. The ambitious programs of municipal socialism involve such enormous public expenditures that the burdens of taxation resulting therefrom would surely drive away from a city more trade, more manufacturing, more industry, more population, than could possibly be attracted to it by the benefits which these expenditures were intended to secure. Those who dream of a speedy realization of the utopian hopes which sociology has revealed to some of its enthusiastic votaries must curb their impatience lest disaster befall.[1]

The social philosophers who devise grandiose schemes of municipal development and social reconstruction are not usually those who have to foot the bill. To spend the money of others for the benefit of mankind is a doubled delight. We laugh in a good-natured way at the volunteer advisers who seek to direct the willing stream of Mr. Carnegie's benevolence; but how

[1] It is to be regretted that the graduates of our universities, who recruit so largely the ranks of the "parlor socialists," should specialize so exclusively in social science. This study—which, as yet, is not a science at all—is undoubtedly more alluring than taxation, finance and other branches of economics. The latter, however, are more firmly grounded on facts elicited by empirical investigation, and a better appreciation of their significance would help to moderate youthful extravagances. Those who keep their gaze fixed on the stars should none the less tread firmly on the earth.

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ought we to regard those who would gratify their *folie raisonnante* by employing the taxing power to empty the pockets of those unwilling and unable to pay?

Whatever progress has been made in the modern social "uplift" has been due to the wonderful achievements of modern industrialism, which have created so large a "surplus value" as to enable wealth to realize much of its latent social power. The ability to aid mankind is no longer limited to a small aristocracy of charity; more and more each day, as prosperity increases, the community at large becomes better able and more willing to contribute towards this end. But this ability must not be over-estimated. With the great majority of men the first problem is still that of self-support. A man must feel secure of that before he can be expected to give, either voluntarily through old-fashioned charity or involuntarily through taxation for better social conditions. The fanatics of the new religion of socialism, by fostering municipal megalomania, can more effectively arrest the progress of social welfare than the most selfish and stubborn of reactionaries. Mankind, in spite of Herbert Spencer's forebodings, still cherishes the sentiment of justice. Indeed, it is that very sentiment, in part, which makes us so desirous to raise the deserving poor from oppressive conditions, but this must not be attempted at the cost of a greater injustice.

The limitations of municipal socialism lie mainly in the effects of excessive taxation. Should this movement, which in its philanthropic aspect is, as I have said, merely a kind of governmental sodality, advance with due recognition of its economic limitations, it would be difficult now to set the bounds of its ultimate accomplishments. But it depends for its future upon economic prosperity and sanity in expenditure.

EDGAR J. LEVEY.

NEW YORK CITY.

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UNIONISM IN THE IRON AND STEEL INDUSTRY

THE first union in the iron and steel industry in the United States was organized in 1858 by the Pittsburgh puddlers. It was called the "Sons of Vulcan." The movement was at first very cautious, but in 1862 secrecy was abandoned and, on September 8, a national organization was effected in Pittsburgh with Miles Humphreys as president. Two other unions in the iron industry were formed later. In 1869 the heaters in a Chicago mill formed an organization, which soon became national, under the name "Associated Brotherhood of Iron and Steel Heaters, Rollers and Roughers." The "Iron and Steel Roll Hands of the United States" was organized in a mill in Chicago in 1870. Earlier dates[1] are sometimes given for the beginnings of organizations in the finishing departments, but these Chicago locals seem to be the only unions that developed into anything permanent.

The three organizations existed side by side in the same mills, and it soon became apparent to the members that much could be gained by joining forces. Accordingly, on December 7, 1875, representatives of the three organizations met in Pittsburgh and spent six days in discussing plans for amalgamation. They drew up a tentative constitution and adjourned. August 1, 1876, the three unions met in separate conventions in Pittsburgh, and on August 3 they went into joint convention. In addition to the representatives of the three national organizations there was one representative of the "United Nailers," an organization which had been started in 1874 and which included

[1] Fincher's *Trade Review* published in its trade-union directory a card of a "Heaters' Union" of Cleveland, Ohio, in 1865. In 1866, cards of "Heaters' Union Number 2" of Troy, New York, and "Heaters' Union Number 8" of Pittsburgh were published. A card of the "Iron Rollers of Troy," New York, was published in 1865 and 1866. July 6, 1865, a convention was held at Cleveland, Ohio, "pursuant to call" with delegates of heaters' unions present from various states for the purpose of "organizing a national union, or, more properly, of effecting a more complete national organization." They remained in session two days and adjourned to meet at the same place July 5, 1866.

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several local lodges without any national organization."[1] The joint convention proceeded to vote on the constitution that had been agreed upon by the amalgamation committees in December, 1875, and it was adopted practically without change. The convention adopted as a name, "National Amalgamated Association of Iron and Steel Workers."

Once formed, the Amalgamated Association steadily extended its organization. From the first the Pittsburgh district had been the trade-union stronghold. The bulk of the membership of the Sons of Vulcan was in and around Pittsburgh, and here unionism found the most responsive feeling. By 1885 practically all the iron mills in western Pennsylvania had been organized and the Amalgamated was gaining a strong foothold in Ohio, Indiana and Illinois.

At this time the steel industry in America was in its infancy. The Edgar Thomson steel works at Braddock, Pennsylvania, began to make Bessemer steel in 1875. This was the first large steel mill built in Allegheny county. The North Chicago Steel Mill entered the industry a few years earlier, but it was not until the middle of the eighties that steel superseded iron in the market. This fact has had an important bearing on the internal and external history of the Amalgamated Association. The three bodies that met in 1876 and created the new organization were composed of iron workers. The name "Iron and Steel Workers" was really a misnomer, for the steel workers who participated in the movement were so few as to be almost a negligible quantity. The Sons of Vulcan, composed of iron workers exclusively, formed the backbone of the new organization and contributed over eighty-five per cent of its original membership, and the majority of the members of the Heaters and Rollers and also of the Roll Hands were iron workers.

Before discussing the effect of the make-up of the organization upon its working policies it seems desirable to describe the machinery of the organization and its fundamental laws.

In the original constitution of the association, the first section of the first article reads as follows: "This Association shall be

[1] Report, Pennsylvania Bureau of Industrial Statistics, 1887.

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known as the National Amalgamated Association of the Iron and Steel Workers of the United States, consisting of Puddlers, Boilers, Heaters, Roll Hands, Nailers, Helpers and Shinglers." The list of those eligible to membership has been expanded from time to time, but it has always been exclusive. Since 1889 no one has been specifically barred excepting laborers, and these may be admitted by the subordinate lodges. In practice, however, laborers are very seldom admitted; and the association is still, as it has frequently been termed, an "aristocracy of labor."

The second section of the first article, which states the purpose of the association, elicited much discussion in the convention of 1876. The section, as reported by the committee, declared it to be the purpose of the association to obtain certain rights by means of "arbitration or conciliation, or by other means . . . that are fair and legal." Controversy arose over the word "arbitration," and it was voted to drop it, leaving "conciliation" as the means of settling disputes. By conciliation was meant the meeting with employers in conference and the open and fair discussion of differences. This was the method that the Sons of Vulcan had been employing from the beginning with excellent results; and it is still employed without material change. Within the last few years, however, an arbitration feature has been adopted which adds greatly to the merit of the system.

The most important matter which comes up for discussion each year is the wage question. The scale runs for a year, the scale-year ending July 1. If changes are desired, notice must be sent to the secretary of the national lodge before the third Tuesday in March. The secretary has all proposed changes compiled and printed, and a copy is sent to every subordinate lodge, so that the delegates whom the lodge sends to the convention may be duly instructed. From the delegates chosen by the various lodges, the president of the association appoints a wage committee of about twenty-five, endeavoring to make it fairly representative of the various trades. This committee meets a few days before the opening of the convention, in the city where the convention itself is to be held, and it formulates

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a scale to be presented to the manufacturers for signature. Formulating a scale means much more than deciding on the wages that are to be asked for the ensuing year. The scale book includes, besides the wage scales themselves, a long list of footnotes which deal with the conditions of employment, the length of the working day, the number of pounds of iron to be put into the furnace at one time, the settlement of disputes, the amount of work to be done in a day and a countless number of other regulations of great importance to the workmen. There are usually a good many suggestions regarding alterations of the footnotes, and as the committee has to pass on all of these its task is no easy one. When the convention meets—and to the end that there may be ample time for discussion and negotiation it meets early in May—the committee is ready with its report; the whole scale with the footnotes is considered point by point; each proposal is of course subject to amendment or rejection, and new proposals may be substituted. Having passed the convention, the scale is ready for the consideration of the manufacturers. At present conferences are held with the Western Bar Iron Association, with the Republic Iron and Steel Company, with the American Sheet and Tin Plate Company and with independent sheet and tin manufacturers. The Bar Iron Association is composed of certain independent manufacturers of the West. The Republic Iron and Steel Company is a corporation embracing a large number of formerly independent iron plants. The scale accepted by these two concerns is the scale under which wages are paid in all union mills for the next year. The conference committee has full power to modify the scale approved by the convention. The manufacturers of course come into the conference with a scale that they are willing to sign; and the outcome is usually a compromise between the two scales.

In recent years the Amalgamated Association and the employers have adopted a so-called "continuous operation" arrangement. In former years it used to be understood that if on the first day of July no scale had been signed the men would cease work until an agreement should be reached. Under the continuous operation agreement the men go on working under

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the old scale. Provision is also made for arbitration. If the manufacturers' and workingmen's committees fail to reach an agreement within ten days after the scale year ends, a "board of conciliation" is formed. The manufacturers and the Amalgamated Association severally select single representatives, and from a list mutually agreed upon these two representatives choose a third. This board of three decides all points in controversy. Neither side is obliged to accept the findings of the board, but objection to the findings can not be made with very good grace, and none has ever been made. This agreement has been in force since 1902; but the Republic Iron and Steel Company withdrew from it in 1908, and there are indications that the plan may be abandoned.

It should be noted, further, that a sliding scale of wage payments is maintained, so that wages fluctuate with the price of bar iron. The system was worked out by Miles Humphreys and the Sons of Vulcan over forty years ago, and the changes since introduced are not essential.

For a number of years, in the later seventies and early eighties, the Amalgamated Association threshed out the wage question with the Pittsburgh manufacturers, and the settlement reached in these negotiations was accepted by the manufacturers of the Ohio Valley and the West. A higher rate, however, was paid in the West. In Cincinnati, Cleveland and Chicago the wages paid for puddling were a dollar a ton higher than in Pittsburgh. Apparently the main reason for the difference was that skilled men were scarce in the West and a higher wage had to be paid in order to attract them.

In the earlier history of the Amalgamated Association, when there was no manufacturers' association, the scale was taken to the leading iron manufacturers in turn. If Jones and Laughlin, Moorhead, McCleane and Company, and a few others signed the scale, the rest began to fall into line.[1] Later, an association

[1] It is interesting to note that Carnegie Brothers and Company were always among the first to sign the scale. From the birth of the Amalgamated Association in 1876 until 1889 there was no serious difficulty between the Carnegie Company and its employees. Then, inside of three years, the Carnegie Company was twice involved in labor troubles which for bitterness exceeded anything the iron and steel industry had ever known; and when the second contest was over, the Amalgamated Association was shorn of its strength.

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of Pittsburgh manufacturers was formed for the purpose of conferring on the scale, and this association came in time to include manufacturers outside of Pittsburgh. None of the manufacturers' associations, however, has been long-lived; each, as a rule, has come into existence for the purpose of holding conferences and has ceased to exist after the conferences had been held.

In the Amalgamated Association, the revenue of the national lodge comes from fees for organizing new lodges and from membership dues. Every member, regardless of wages, pays $1.00 per quarter to the national lodge, and there are monthly dues which vary in proportion to wages received. Members earning not more than $2.50 per day pay 60 cents per month; those earning more than $2.50 and less than $5.00 pay 80 cents per month; and those earning more than $5.00 pay $1.00 per month. With a membership of 10,000 these dues provide a considerable revenue. In 1907 the receipts amounted to over $135,000. This has been the method of raising funds since 1905. In the earlier years of the association no attempt was made at grading dues; there were uniform membership fees for all regardless of the amount of the daily wage.

The executive organization of the association has been changed from time to time as the organization has grown or as policies have changed. In 1876 the association elected a president who was also to act as secretary, a vice-president for each of the eight districts, a treasurer and three trustees. To the president was voted a salary of $1500 per year; for the other officers no salaries were provided. After a few years the president found that he could not attend to the business of the association without help, and he appointed a secretary. The convention ratified his choice and voted a salary to the secretary, and after 1880 the position was made elective. As the organization grew in strength and importance, the other officers, excepting the trustees, were also put on salary. This was done for two reasons: that the officers might devote all of their time to the service of the association and that they might be independent of their jobs in the mills. The duties of the various officers have been practically unchanged from the

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beginning. The president, in addition to his ordinary executive duties, is interpreter of the constitution, and on questions of interpretation his decisions are final. He is also an organizer and is expected to spend much of his time in the field. The duties of the vice-presidents are similar: they are expected to promote the interests of the association within their special fields, and they frequently act as mediators. The whole territory covered by the iron and steel industries was divided at first into eight districts, later into ten; and until 1905 there was a vice-president for each district. In 1905 the system was changed: vice-presidents were elected not for districts but for divisions corresponding to the different branches of mill work, so that there are now the boiling, finishing, sheet and tin divisions, with a vice-president at the head of each division. One division only remains territorial—the Eastern. Under the older system a vice-president who was by trade a puddler might have to settle disputes in the finishing mills or in any other department of mill work in his district; under the present system the vice-presidents are chosen because of their familiarity with the particular branches of industry which they are to supervise. The only national officers not provided for in the original constitution are the editor of the official *Amalgamated Journal*, an assistant secretary and an insurance secretary. At the present time the officers and their annual salaries are as follows: president, $2160; secretary-treasurer, $1800; assistant secretary, $1440; five vice-presidents, $1440 each; insurance secretary, $1200.

The subordinate lodges have the usual executive officers, but the most important organ of the lodge is the mill committee, which is composed of three members on each "turn" or shift. The mill committee represents the men, and it is through the mill committee that the employer communicates with the lodge. All controversies are adjusted, if possible, by conference between the mill committee and the employer. It is the duty of the mill committee to guard the interests of the association and to enforce its rules. If a member has a grievance he reports it to the mill committee; the matter is investigated, and an attempt is made to effect a settlement. If no

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settlement is attained, a meeting of the lodge is called; and if the matter is considered of sufficient importance it is reported to the vice-president of the division, and no action is taken until the vice-president has had time to investigate. If the vice-president is unable to settle the difficulty and the matter is serious enough, he calls together the executive committee to decide whether or not a strike shall be authorized. The executive committee consists of the president of the national lodge, the vice-president of the division who acts as chairman, the deputies to the vice-president and the president and two members of the lodge primarily concerned. If the executive committee decides to authorize a strike, the men may cease work. Authority to terminate a strike is lodged in the same committee. After an authorized strike has been in operation for two weeks, the members on strike are entitled to $4.00 per week from the protective fund of the national lodge, provided there is $10,000 or over in the treasury. The payments continue for thirteen weeks; after that they cease unless ordered continued by the president. In order to provide funds for a strike the national secretary-treasurer has the right to levy a tax upon the members under a graduated percentage system, dependent upon the number of men on strike and upon the daily wage of the taxable members.

In 1903 a death-benefit fund was established by appropriating to that purpose ten per cent of the money then in the treasury. In order to maintain the fund, each lodge was required to pay an assessment of twenty cents per quarter for each member. On the death of a member in good standing $100 was paid to his heirs. A member in good standing was interpreted to mean one whose obligations to his lodge and to the national lodge had been discharged and who had been a member at least three months preceding his death. At the convention of 1908 the insurance system was put on a new basis and its scope was widened. It now provides for sickness, accident and disability benefits, besides the death benefit, and it grades the death benefits from $100 to $500 according to length of period of membership.

The foregoing description of the constitution of the Amal-

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gamated Association and of its administrative machinery furnishes the basis for a consideration of its policies.

It has been pointed out that the association was originally composed of iron workers. Its rules and customs were those applicable to iron mills; and when the steel mills with their automatic machinery and their swifter processes began to be unionized, these rules and customs were not easily changed. Men who had gained their earlier training in the iron mills supplied to a large extent the skilled labor required in steel manufacture and brought with them their iron-mill habits and points of view.

Of especial importance was the manner of determining the length of the working day. In the iron mills there is seldom a fixed number of hours; the men work a certain number of "heats," and when this number is completed the day is done. In a puddling furnace no other rule is possible, for the work progresses by heats, and one charge has to be melted, worked and taken out before the next can go in. In an old-style heating furnace it was necessary to work by heats, for the heat was admitted only from one side of the furnace, and, as heating iron is a very delicate process, a welding heat being necessary, no cold iron could be put into the furnace until all the heated iron was withdrawn, because of the danger of chilling the furnace. Iron furnaces are now made reversible, so that a gas flame can be admitted from either side; and with such furnaces iron may be charged and withdrawn continuously. Where coal is used as fuel, however, the reversing process can not be employed, and the work must progress by heats. The process of heating steel is not nearly so difficult, as a welding heat is not desired. It can be charged continuously, and there is nothing to interfere with continuous operation. Yet the Amalgamated Association used to operate the steel mills by the heat system. The men would get out a certain number of heats a day, and, although operating with two crews, they did not work twelve hours. The mills would be idle three or four hours in a day. It was simply a method of limiting the length of the working day. For example, the 119-inch plate-mill at Homestead, which went over to the three-turn system in 1891, was operated until that year

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with two crews, and, in accordance with the general custom, it was not operated a full twenty-four hours in each day. One turn was eleven hours long and the other ten hours, leaving three hours during which the mill was idle.[1]

Manufacturers are naturally impatient under any such restrictions; when a mill is built and equipped for continuous operation every hour during which it is idle involves a serious loss to the owners. It would seem that here was an opportunity, of which the Amalgamated Association might have availed itself, to introduce an eight-hour day. The increased production and the substitution of profit for loss during the hours in which the mills were formerly idle would have offset the increased labor cost. Instead of this the association opposed the eight-hour day; and although, subsequently, it changed its attitude so far as the steel mills were concerned, the eight-hour movement came too late to be generally successful. The greatest opposition to the eight-hour day was in the sheet mills. In other steel mills the attitude of the men seems to have been one of indifference. In 1888, when Mr. Andrew Carnegie reduced the wages of the employees in the Edgar Thomson plant and at the same time changed their hours from eight to twelve, Secretary William Martin of the Amalgamated Association said that he considered the twelve-hour provision the "least objectionable point."[2]

In the sheet mills the hour question was worked out in a peculiar and interesting manner. The Amalgamated Association, early in its history, placed a restriction on the amount of work that could be done in such mills. In the early stages of the industry it took nearly twenty-four hours to finish two turns of work. As improvements were made in mill construction, it became possible to finish a turn's work in a shorter time, and there came to be long periods of idleness between shifts. This is most undesirable in a sheet mill, for sheet steel is rolled so thin that good results can be obtained only when the rolls are expanded by the heat. If they are allowed to get cold they

[1] Homestead Investigation, 1892, Mis. Doc. no. 335, 52nd Congress, 1st Session, p. 187.

[2] *National Labor Tribune*, April 14, 1888.

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must be warmed up again by rolling scrap until they reach the correct expansion. The manufacturers, at an early date, tried to introduce the eight-hour day and were resisted by the union. In 1883 it was reported in the convention of the Amalgamated Association that Moorhead, McCleane and Company of Pittsburgh were about to force the eight-hour day on their men. This was cited as an example of the "encroachments of aggressive and designing capital;" and the executive committee ruled that under no circumstances should a mill go on three turns.[1] The reason for this seemingly inexplicable attitude was that the men feared a reduction in wages. It took more than eight hours to get out a full turn's work, and as the workmen were paid by the ton they expected their earnings to be less under the three-turn system. Some of the mills violated the rule of the executive committee; and in 1884 the national lodge actually revoked the charters of two lodges for working three turns.[2] The difficulties in which the association had involved itself are reflected in the report of President Weihe to the convention in 1885. He saw the advantages of the eight-hour day, but he was confronted by a law of the association which he was supposed to enforce. He pointed out that on three turns the rolls were always warm, while on two turns time was lost in warming them up after they had been "standing idle six or seven hours." Furthermore, by enforcing the double-turn rule the association prevented an increase in the number of available positions and kept a portion of its own members idle. In spite of these considerations, after "hesitating and pondering for some time," he finally decided "to carry out the law." There were at that time seven mills running on the three-turn system, and he felt constrained to revoke the charters of the lodges in those mills.[3] After listening to this report, the convention of 1885 voted to permit an eight-hour day in sheet mills.[4] From this time the sheet mills began to go on three

[1] Journal of proceedings, A. A. of I. and S. W., 1883, p. 171.

[2] Financial statement, A. A. of I. and S. W., for the quarter ending March 31, 1884, p. 3.

[3] Journal of proceedings, A. A. of I. and S. W., 1885, p. 1547.

[4] *Ibid.*

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turns, with the consent but not with the coöperation of the Amalgamated Association, until at the present time all sheet and tin mills are operating under that system. In 1904 the limit on output was removed for the sheet and tin mills, but the eight-hour system was not abandoned. The output has so increased and the speed of the mills is so great that a twelve-hour day would now be an impossibility. Sheet mills, unlike other branches of mill work, require as much manual labor as under earlier conditions.

In the iron mills the eight-hour day has been no more popular. Here, too, the objection was based on the fear of a reduction in wages. From the beginning of the industry in the Pittsburgh district five heats have been considered a day's work for a puddler. The length of time required for getting out five heats depends on the quality of the pig iron used, the condition of the furnace and the skill of the puddler. Ordinarily five heats of 550 pounds each will require about ten hours of work, but if conditions are exceptionally favorable eight hours may be sufficient. Conditions do not usually permit such rapid work, however, and so the men look with suspicion upon the three-turn system. The difficulty lies in the custom which has decreed that five heats are a day's work. The wage scale is arranged entirely from this point of view; so that, while a man can make a fairly satisfactory wage when working five heats, his earnings are cut down if he misses a heat, and he is almost certain to miss one or two if he works only eight hours. A petition was presented to the Amalgamated Association convention in 1892, signed by "a large number of heaters, rollers, roughers, catchers *etc.*," complaining that their connection with the American Federation of Labor made them seem to favor the eight-hour movement, which, they said, was "not practicable" for them as iron workers. They suggested, therefore, that the association sever its connection with the American Federation of Labor.[1] The petition was tabled without action. The attitude of the petitioners becomes quite intelligible when one understands the situation. It must be remembered that in opposing an eight-hour day they were favoring not a twelve-

[1] Journal of proceedings, A. A. of I. and S. W., 1892, p. 3761.

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hour day but an average working day of ten hours. In the eight-hour day they saw only a reduction of wages, and, so far as immediate results were concerned, they were probably right.

It will be seen that the question of hours has been largely a question of restriction of output. The Association dodged the issue of a definite limit on the number of hours in a working day, endeavoring to secure that end by limiting output. When unionism was driven out of the steel industry, it left the two-shift system in nearly universal operation; and it is not surprising that the steel companies, left without organized opposition, merely eliminated the restriction upon output and thus extended the working time of the two crews so as to cover the twenty-four hours of the day. Whether the association could have secured a universal eight-hour day for positions under its jurisdiction may perhaps be questioned; but considering that it was strong enough to shorten the day by restricting output, it is difficult to see why an eight-hour movement could not have been successfully carried through. If this victory had been won before defeat overtook the union, it would have been much more difficult for the companies to go back from three shifts to two, than it was to extend the two-shift system to cover a longer day. The iron workers are today as bitterly opposed to the three-shift system as were the sheet workers twenty-five years ago. In 1907, Vice-President Jones of the Amalgamated Association endeavored, with the coöperation of the employers, to introduce the three-shift system in an iron mill in Cleveland, Ohio. The men not only refused to accept the eight-hour limit, but bitterly denounced Mr. Jones for his activity and threatened to prefer charges against him before the national lodge.

One of the earliest rules of the association was the "one man, one job" rule. This rule defines a "job" and denies to a member the privilege of holding more than one. In the later seventies, a single job was defined as meaning "one furnace, one train of rolls, one steel-smelting gas furnace both turns, or two steel-smelting gas furnaces one turn;" and the statement was added that the rule was to be enforced "when practicable."[1]

[1] Constitution of A. A. of I. and S. W., 1879, article 14, section 7.

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This qualification was soon dropped, and the definition was broadened and made more explicit.[1] This rule touches upon the contract system, which was once a common arrangement in the iron mills. A man would contract to run a single mill, from the furnaces to the piling beds or the shears, and, like any other contractor, he derived his profit from the margin between what the company paid him and what he paid his men. The contractor was usually described as the roller, but in many instances he did not work at all, having two practical rollers employed on the mill. By paying his men as low wages as possible, he reaped a large profit; and it was because of the profits thus made that steel workers were commonly supposed to be highly paid.[2] This practice was too firmly established in the industry to be easily eliminated; and that was doubtless the reason why, in the constitution of 1879, the association directed that the contrary rule should be enforced "when practicable." Although this qualifying clause was dropped before 1882, the rule laid down by the association was not strictly enforced until after 1887. In that year the association took a determined stand against the contract system.[3] The convention stigmatized as a "black sheep" any man who received pay for more than one job; and it made the introduction or continuance of the contract system a sufficient cause for a strike, without action on the part of the executive committee. In consequence of these declarations, the contract system was for the most part eliminated.

The national leaders of the Amalgamated Association have been, for the most part, firm in maintaining the honor of the organization. Contracts have been regarded by most of the leaders as sacred obligations. On one occasion, when the members of the Amalgamated Association in a certain mill in Pittsburgh went on an illegal strike and refused to return to work when ordered to do so by the executive committee of the district, Secretary Martin advertised in the name of the association

[1] *Op. cit.*, 1882, article 16, section 5.

[2] *National Labor Tribune*, August 6, 1887.

[3] *Ibid.*

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for men to take the strikers' places and got them. In 1887, Joseph D. Weeks, secretary of the Western Iron Association of Manufacturers, was quoted as saying that in twenty-one years the iron workers had not once broken a contract.[1] President Garland, who held office from 1892 to 1898, actively maintained that contracts were made to keep. President Weihe, however, countenanced the breaking of contracts in 1892, when the lodges in mills where the scale had been signed for another year came out on strike in sympathy with the men at Homestead. In 1900 the convention, probably anticipating a struggle with the combinations then forming, passed an amendment to the constitution which read: "Should one mill in a combine or trust have a difficulty, all mills in said combine or trust shall cease work until such grievance is settled."[2] In the strike of 1901 against the United States Steel Corporation, President Shaffer forced on strike against their will the men in the Milwaukee and Joliet mills of the Illinois Steel Company, a subsidiary company, although a contract had been signed for a year ahead. The South Chicago men refused to break their contracts and Shaffer revoked their charter for violation of the clause just quoted. These acts have hurt the prestige of the Amalgamated Association.

Thus far labor controversies and strikes have been mentioned only in the briefest manner. That subject, taken up in detail, would require separate treatment. This paper would be incomplete, however, without a discussion of the Homestead strike of 1892 and a reference at least to the sheet and tin strike of 1901; for these two conflicts crippled the association and drove unionism out of the steel mills.

The Amalgamated Association never succeeded in organizing all of the steel mills, but it went far in that direction, and was recognized by most of the leading companies. In 1891 it was at the height of its power and influence, with a total membership of 24,068. In 1908, at the Youngstown convention, the secretary reported 7472 members in good standing. This downward movement was started by the disastrous outcome of the

[1] Report of Pennsylvania Bureau of Industrial Statistics, 1887.

[2] Article 17, section 23.

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Homestead strike, which lost to the association the largest steel mill under its jurisdiction. The causes of this decline in strength were both external and internal. Among the internal causes were some of the policies which have been discussed in this paper. Arbitrary action where the organization was possessed of great power tended to arouse a feeling of hostility on the part of the employers; but whether this was the chief cause of the decline or merely a contributory factor may well be questioned.

The first strike against the Carnegie Steel Company at Homestead took place in 1889. The company attempted to reduce the wages of the men and, at the same time, to end the union influence by announcing that thereafter it would deal with the men individually instead of through a union. In the ensuing strike the men were victorious, and a scale was signed to last three years. In this adjustment the sliding scale was for the first time introduced into a steel mill. The scale was based on the selling price of 4 x 4 billets, and the minimum base was fixed at $25.00 a ton. This scale was at first satisfactory to both company and men; but it became a bone of contention because of the fluctuations in the price of billets which took place during the term of the contract. When the scale was signed in July, 1889, steel billets were selling at $26.50. The price began to advance immediately and by December, 1889, it had reached $36.00. The price at the close of 1890 was $25.75, and in 1891 it fluctuated between $26.50 and $25.25. In January, 1892, the price was $25.00. It then fell to $23.00 in March, to $22.40 on June 3, and in the latter part of June it was $23.75.[1] Since $25.00 was the minimum base, wages were paid as if the price were $25.00 when it had sunk to $24.00 and $23.00; but there was no corresponding maximum point at which wages ceased to advance with the selling price. This was one of the matters of controversy in the strike of 1892.

The story of the Homestead strike of 1892 is too familiar to need retelling. It should be noted, however, that a few events of an unusual nature served to fan the prejudices of the time

[1] *American Manufacturer and Iron World*, July 1, 1892.

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and have since obscured to many, who would like to be fair-minded, the real issues involved. The so-called battle between the Pinkerton men and the strikers and the subsequent treatment of the Pinkertons have done more to color popular opinion in the matter than anything else. Yet during the term of the strike, from June 23 to November 20, there was but one day of disorder, and the circumstances under which the disorders of that day arose are not clearly understood by the public. The attempt upon the life of Mr. Frick, the chairman of the Carnegie Company, by an anarchist from New York, a stranger in Pittsburgh and a stranger to the Amalgamated Association, was a dramatic event that drew attention from the real controversy. It is my desire to re-state, as clearly as I can, the issues involved.

In most respects the strike of 1892 was a continuation of the conflict of 1889. The points over which there was controversy were practically the same. The company proposed a reduction in the scale of the men employed in the 119-inch plate-mill, in the 32-inch slabbing-mill and in the open-hearth departments. The second proposition was that the scale should be in force for one year and six months, thus terminating January 1, 1894, instead of in midsummer. The third proposition was the reduction of the minimum base of the scale from $25.00 to $22.00 per ton for 4 x 4 billets. On this last point concessions were made on each side before the strike began; a conference committee of the union offered to accept a minimum base of $24.00, and the company, in reply, proposed a minimum base of $23.00. These were the points that were considered in conference and apparently they were the issues over which the contest was waged. But there was another issue, and this must be kept in mind in any attempt to understand the bitterness of feeling in the Homestead strike. It was the belief of many of the men that Mr. Frick was deliberately seeking a conflict because he wanted to drive the union out of Homestead. Whether this belief was or was not justified, it was very generally shared before the strike began; and before the struggle had been in progress ten days, wage questions and all other controversial points were forgotten and the dominant issue was the maintenance of the union.

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The circumstances that bred suspicion in the minds of the steel workers were as follows: In January, 1889, H. C. Frick purchased the interests of D. O. Stewart in the Carnegie firm and became chairman of Carnegie Brothers and Company. Up to that time Mr. Frick had been chiefly interested in coke manufacture; the H. C. Frick Coke Company was one of the largest producers of coke in the Connellsville district. There had been labor difficulties in the coke fields; rightly or wrongly, Mr. Frick was regarded as the implacable foe of organized labor; and the steel workers viewed with apprehension his entrance into the steel business. Within six months after Mr. Frick had become a member of the Carnegie firm, the Homestead men were involved in the first serious difficulty that had ever arisen between them and the management, and the firm was demanding a dissolution of the union and the signature of individual contracts. When in 1892, at the expiration of the contract signed in 1889, another conflict seemed imminent, the men looked upon it as a renewal of the campaign for the destruction of the union.

Negotiations for the new scale began in February, 1892, the men presenting a scale to the company. A few weeks later the company presented a scale to the men providing for a reduction. A number of conferences were held without result; and on May 30 the company submitted an ultimatum to the effect that if the scale were not signed by June 24 they would treat with the men as individuals.[1] That this meant that the men must accept the scale by June 24 or the plant would become non-union is clearly indicated by Mr. Frick's testimony before the Congressional investigating committee on July 12, 1892.

> After the 24th of June, when these workmen refused to make terms with us, we concluded it would be necessary to protect our own property and secure new workmen, whom we had plenty of applications from.
>
> Q. Non-union men, you mean?
>
> A. We did not care whether they were union or non-union, but we wanted men with whom we could deal individually. We did not pro-

[1] Journal of proceedings, A. A. of I. and S. W., 1893.

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pose to deal with the Amalgamated Association after that date, as we had plainly told them.[1]

Again, in an interview, Mr. Frick made a statement defining his attitude of opposition to the Amalgamated Association in even stronger terms.[2]

A conference, sought by the Amalgamated men, was held on June 23 in the office of the Carnegie Steel Company in Pittsburgh. It was at this time that reciprocal concessions were made with respect to the minimum base, Mr. Frick offering $23.00 and the Amalgamated Association coming down to $24.00. These were the only concessions made, and upon no point was there agreement; so when the strike began, on June 29, the members of the Amalgamated Association in Homestead were assured that they were going into a fight to determine their right to united action.

Finally, the engagement of Pinkerton men to take charge of the works indicated a determination on the part of the Carnegie company to crush out unionism. It was brought out in the testimony of H. C. Frick[3] and in that of Robert A. Pinkerton[4] before the Congressional investigating committee that, before the last conference was held between the representatives of the Amalgamated Association and the Carnegie Steel Company, negotiations were already under way with the Pinkertons. The last conference was held June 23. On June 25 Mr. Frick wrote to Robert A. Pinkerton of New York, acknowledging Mr. Pinkerton's letter of June 22, the day before the conference, and stating that the Carnegie Steel Company would want three hundred guards for service in preventing interference with the operation of the Homestead plant on July 6. Mr. Frick and Mr. Pinkerton both testified that several days, possibly a week

[1] Misc. Doc. no. 335, House of Rep., 52d Congress, 1st Session, p. 33.

[2] "I can say with greatest emphasis that under no circumstances will we have any further dealings with the Amalgamated Association as an organization. This is final." *Pittsburgh Post*, July 8, 1892. The interview is printed in full in Mr. Frick's testimony before the Congressional investigating committee, pp. 30–33.

[3] Mis. Doc. no. 335, 52d Congress, 1st Session, p. 42.

[4] *Ibid.*, p. 201.

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or more, before the letter of the 25th was written, a representative of the Pinkerton agency had been in Pittsburgh, having come from New York at Mr. Frick's request for the purpose of conferring with him. No definite arrangement was made at this time, but it is significant that several days before it was known positively that the Amalgamated Association would not accede to all of the propositions of the company, arrangements were being made for the engagement of guards to take charge of the Homestead plant. It would seem a trifle strange that such preparations should have been made before there was any suggestion of disorder and that such a large force of men should have been engaged if the company were not contemplating the destruction of the union.

I have dwelt at some length on this point because it is vitally necessary to an understanding of the bitterness and determination manifested on both sides.

It is unnecessary to recount in detail the history of the strike. A brief statement of the most important events will be sufficient. The three hundred men whom Mr. Frick had engaged from the Pinkerton agency were brought together at Ashtabula, Ohio. They arrived at a station on the Ohio river below Pittsburgh, near midnight on July 5. Here they embarked on barges and were towed up the river to Pittsburgh, and then up the Monongahela river to Homestead, which they approached at about four o'clock on the morning of the 6th. The Homestead workmen had been warned of their coming; and when the boat reached the landing back of the steel works nearly the whole town was there to meet them and prevent their landing. What followed will probably never be known with exactness; for it is doubtful whether there could be any impartial observers. Many of the men had been working in Homestead since the mills had first been built. They had seen the mills grow from a small beginning to one of the finest and best equipped plants in the world. They were proud of the plant and proud of the part that they had had in its progress. Over the hills rising from the river were their homes, neat, well-kept workingmen's cottages, the fruits of their own toil—for many of the workingmen were home owners—and now these homes were in jeopardy. They

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could have gone back to work at any time, of course, by accepting the terms of the company. But that meant giving up their union, and few people understand what that means to a union man. It seemed like self-disfranchisement. So when the Pinkerton men came, the Homestead steel workers saw in their approach an attempt at subjugation at the hands of an armed force of unauthorized individuals. A mob of men with guns coming to take their jobs, coming to take away the chance to work, to take opportunity away from their children, perhaps to break up the little homes—that is what passed through the minds of the Homestead men. How far wrong they were, how perverted was their judgment, I do not attempt to say. I desire only to explain their point of view, if that be possible, and to show why men habitually law-abiding slipped revolvers into their pockets that morning. When the day was over, at least half a dozen men on both sides had been killed, and a number more were seriously wounded. The Pinkerton men were defeated and driven away; and, although there was no more disorder of any sort, the state militia appeared in Homestead on July 12 and remained for several months.

The strike which began in Homestead soon spread to other mills. The Carnegie mills on 29th and 33d Streets, Pittsburgh, went on strike in sympathy. Duquesne, non-union from the beginning, was organized in July and most of the men came out on strike for a few weeks. Other mills in Pittsburgh having no connection with the Carnegie Steel Company went on strike; altogether, it was a summer of strikes in the Pittsburgh steel mills. The strike at Homestead was finally declared off on November 20, and most of the men went back to their old positions, as non-union men. It had been a long, costly struggle. The funds of the association were depleted, winter was coming on, and so it was finally decided to consider the battle lost.

This was the beginning of the end of unionism in the steel mills of the United States. The Carnegie Steel Company broke with the union in all of their Allegheny County plants at the same time. The other Pittsburgh steel mills that had been on strike also became non-union. Where the great Carnegie Steel Company led, the others had to follow; and we find that from

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this time on the union was gradually but surely eliminated from the steel industry. Jones and Laughlin, today the largest steel company outside the United States Steel Corporation, eliminated unionism from their plant in 1897. The panic of 1893, following the Homestead strike, dealt another blow to the Amalgamated Association. The steel mills of Allegheny County were all put upon a non-union basis before 1900. In Pittsburgh the iron mills, too, became largely non-union between 1890 and 1900. There remained to the organization only the iron mills west of Pittsburgh, the large steel mills of Illinois and a large proportion of the sheet, tin and hoop mills of the country.

As times grew better in the latter part of the decade, the organization began to recoup its membership. There was no trouble over scales and everything was peaceful. Then in 1900 there began to be whisperings of a gigantic consolidation in the steel industry, including nearly all the large steel companies of the country. The Amalgamated officials were alarmed. In any such combination, the Carnegie Steel Company, the arch-enemy of unionism, would easily be first, and would, they feared, insist on driving the union out of every mill in the combination. Then it occurred to President Shaffer and his associates that it would be a propitious time to strike, while the new corporation was forming. Anxious for public confidence, anxious to float their securities, the companies could not afford a labor controversy. Accordingly when the new scales were to be signed in July, 1901, the Amalgamated Association demanded of the American Tin Plate Company that it sign a scale not only for those mills that had been regarded as union but for all of its mills. This was agreed, provided the American Sheet Steel Company would accept the same proposition. The latter company refused, and a strike was started against the American Tin Plate Company, the American Sheet Steel Company and the American Steel Hoop Company. In conferences held on July 11, 12 and 13, these companies offered to sign for all tin mills but one, for all the sheet mills that had been signed for in the preceding year and for four other mills that had been non-union, and for all the hoop mills that had been signed for in the pre-

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ceding year. This highly advantageous offer was foolishly rejected by the representatives of the union; they demanded all the mills or none. The strike then went on in earnest. In August, President Shaffer called on all the men working in mills of the United States Steel Corporation to come out on strike. The amazing literalness with which the laws of the organization were carried out with respect to the Illinois Steel Company mills has already been mentioned.

By the middle of August it was evident that the association had made a mistake. Instead of finding their task easier because the United States Steel Corporation had just been formed, they found that corporation ready to bring all its tremendous power to bear against the organization. President Shaffer offered to arbritrate the whole matter, but the proposition was rejected, and at the end of August the strike was declared at an end.

Today the Amalgamated Association is again more of an iron workers' organization than anything else. Its largest membership is in the iron mills of Ohio, Indiana and Illinois. It still has a foothold in the sheet and tin mills, but it has not under its jurisdiction a single large steel mill.

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A YEAR OF BENCH LABOR LAW.

Liberty is an attractive theme, but the liberty which is exercised in sheer antipathy does not plead strongly for recognition.—Justice McKENNA.

THE doctrine enounced in the Declaration of Independence that governments are instituted among men to secure certain rights, among which are life, liberty and the pursuit of happiness, was incorporated in part in the amendments to the Federal Constitution and is still a working principle in the judicial interpretation of the fundamental law. The matter of life and personal freedom has never been one of overshadowing importance under our government. The question of industrial liberty, involving the rights of the individual on the one hand and on the other the rights of the sovereign, not a capricious or tyrannical king but the sovereign people as organized in civil society, is the most important issue before the public in America and in other civilized countries. It confronts every government at every turn. Said a justice, by way of preface to one of the decisions to be discussed in this paper:

> One of the chief reasons for the creation of government, and therefore one of the chief functions of government, is to prevent extortion and oppression and to foster a productive industry by maintaining a just division of the fruits of industry.

The fundamental postulate on which our government acts in reference to industrial freedom is equality of right. Said the justice quoted above:

> Every one is perfectly free to bring his capital, or his labor, into the market on such terms as he may deem best. This is a fundamental postulate, and as an inseparable corollary therefrom, no one may, of right, impair or impinge upon this individual freedom to use one's labor or capital.

The negative rule is here regarded as a corollary of the posi-

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tive proposition. The freedom here described is a general right, and the government is in duty bound to secure it to every individual unless considerations of public policy make a deviation from this principle imperatively necessary. In one of the notable decisions of the year, Mr. Justice Dayton emphatically says that the law knows no distinctions between rich and poor, between unlawful combinations of capital and unlawful combinations of labor. The same principle must apply to both. In regard to equality of right Mr. Justice Harlan says that "any legislation which disturbs that equality is an arbitrary interference . . . which no government can legally justify in a free land."

The main constitutional guaranties of industrial freedom, aside from the prohibition of slavery, are found in the fifth and fourteenth amendments, which say that no person shall be deprived of life, liberty or property without due process of law. The states are also forbidden to deny to any one the equal protection of the laws. The meaning of life and liberty is evident. Property was defined in the Slaughter House cases as "all the rights which are incident to the use, enjoyment and disposition of all tangible things. Property is everything which has exchangeable value." Subsequent decisions have emphasized the fact that things not tangible may be property, especially that "the privilege of contracting is both liberty and a property right."

With these historical antecedents in mind, let us examine the case for industrial freedom in the decisions of the judicial year 1907–08.

Several decisions were based on common law, which embraces principles of industrial freedom. These decisions proceed on the principle that the government must not only itself abstain from limiting unduly industrial freedom, but must prevent individuals and combinations of individuals from actively interfering with the rights of others in this respect. Many of the decisions were reached in cases growing out of strikes. The right of a laborer to quit the service of an employer is undoubted. The courts say that, if asked to enjoin from striking, they would refuse, because no case can be made in which they

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would compel men to labor, for that would be making them slaves.[1] The right of members of labor unions to withdraw peaceably from any service, either singly or in a body, has always been upheld by the courts, says Judge Hazel of the western district of New York.[2] The mere polling of laborers on the question of strike or no strike, even if the strike be in violation of contract, is not a conspiracy and may not be restrained by injunction. Judge Hazel quotes from a decision by Judge Taft, who says that the officers of a union may advise the members

> as to the proper course to be taken by them in regard to employment, or, if they choose to repose such authority in any one, may order them, on pain of expulsion from the union, peaceably to leave the employ of their employer because any of the terms of employment are unsatisfactory.

But the officers of a union may be enjoined from using their influence to induce men to strike in violation of contract, says Judge Thompson, of Ohio; and Judge Loring, of the Massachusetts supreme court, says that they may be enjoined from combining together to further a strike to prevent an employer from keeping an open shop and from doing any acts whatever, peaceful or otherwise, in furtherance thereof, including the payment of strike benefits and putting the employer on "unfair" lists.[3]

If these latter cases indicate that employers may have some degree of protection against wrongful strikes, the laborer also has some protection against wrongful discharge. Judge Cartwright, speaking for the supreme court of Illinois, held that a laborer was entitled to damages where it was clearly proved that he had been discharged for malicious motives. In this case an employee, who had brought suit to recover damages for injuries sustained while working for a certain company, was discharged by the manager in order to prevent him from earn-

[1] A. R. Barnes and Company *v.* Berry, 156 Fed. Rep. 72.

[2] Del. L. and W. R. R. *v.* Switchmen's Union, 158 Fed. Rep. 541.

[3] Reynolds *v.* Davis, 84 N. E. Rep. 457.

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ing the money with which to prosecute the suit, and the manager said that he would try to prevent the laborer from securing employment elsewhere.[1]

While strikes are legal, a great many of the means employed to make them effective are illegal. Such are violence and intimidation. So Judge Gilbert, of the United States circuit court of appeals, declared that, while the waters of San Francisco Bay are free to all, it was not the right of strikers while on those waters to interfere with the laborers of their former employer engaged in carrying on his business, which was a property right, or to seek to induce shippers and travelers not to patronize him. An injunction was issued restraining the strikers from doing these things.[2]

The decisions relating to boycotts have attracted considerable attention, perhaps more than any other decisions of the year. The first of these was rendered in the Danbury hat case. Since 1901 the American Federation of Labor had striven to compel the hat manufacturers to unionize their shops. One of the weapons employed by the Federation was the boycott. Finally D. E. Loewe and Company, hat manufacturers in Danbury, Connecticut, secured an injunction against the California State Federation of Labor, which had notified wholesale dealers in San Francisco of the boycott and was threatening them with loss of trade if they did not observe it. The plaintiff alleged that the Federation was a combination in restraint of interstate commerce, in violation of the Sherman anti-trust law; and, although it was urged that the Federation was not engaged in interstate business, the plaintiff's contention was upheld by the United States Supreme Court.[3]

The most important decisions, however, have been based not on the Sherman Act but on the common law. On this basis the boycott and the various means of enforcing it have been declared illegal. The printing of circulars giving lists of closed shops and implying that all others are

[1] Gibson *v.* Fidelity and Casualty Company, 83 N. E. Rep. 539.

[2] Sailors Union of the Pacific *v.* Hammond Lumber Company, 156 Fed. Rep. 450.

[3] Loewe *v.* Lawler, 28 Supreme Court Rep. 301.

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"unfair," and the delivery of such circulars to contractors, architects and owners of property; the ordering of strikes on buildings where material from open shops is used; the demand that contractors shall sign agreements not to use open-shop material; and the keeping of "unfair" and "we don't patronize" lists—these acts amount to conspiracy and may properly be stopped by injunction. Such is the law as laid down by Judge Hook, of the United States circuit court of appeals.[1] The publication of "unfair" and "we don't patronize" lists is illegal, and to restrain such publication is not an assault upon the liberty of the press. Such conduct is not an isolated fact, but is an act in a conspiracy to destroy business, an unlawful interference with the freedom of trade. The business which an individual has built up is a property right, capable and deserving of protection. An injunction is the proper method of protecting a business against boycott; and labor unions, their agents and members, and other individuals may be restrained from printing, issuing, publishing or distributing any newspaper, magazine or other document containing "unfair" or "we don't patronize" lists. Such was the opinion of Judge Gould of the supreme court of the District of Columbia.[2] The far-reaching effects of this decision will be appreciated when it is noted that four hundred and eight boycotts were approved and declared within twelve years, that the *American Federationist* regularly published "unfair" and "we don't patronize" lists, and that it was the custom of the Federation, at its annual convention, to appoint a committee on boycotts whose duty it was to see that they were made effective. As to the matter of publication, Judge Dayton, of West Virginia, summed up the law by saying that "no newspaper has the right to publish any matter intended to aid wrongdoers in accomplishing a wrongful purpose or doing unlawful things or to aid unlawful combinations in making effective an unlawful conspiracy."[3]

[1] Shine *et al. v.* Fox Brothers Manufacturing Company, 156 Fed. Rep. 357.

[2] Buck Stove Range Company *v.* American Federation of Labor, 35 Washington (D. C.) Law Rep. 797.

[3] National Telephone Company of West Virginia *v.* Kent, 106 Fed. Rep. 173.

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Two decisions relating to the force and effect of injunctions deserve notice. An appeal may be taken from the final order in an injunction[1]; but the injunction is not thereby suspended nor is its operative force impaired pending the appeal. However improvidently or erroneously an injunction may have been granted, all persons are bound, at their peril, to obey it while it remains in force.[2]

With all these facts before them, the leaders of the American Federation of Labor decided to disobey the injunction prohibiting the printing of "unfair" lists and continued to list the Buck Stove Range Company as "unfair" in the *American Federationist*. In reaching this decision Mr. Gompers is reported by the press to have said: "When it comes to a choice between surrendering my rights as a free American citizen or violating the injunction of the courts, I do not hesitate to say that I will exercise my rights as between the two." Messrs. Gompers, Mitchell and Morrison were then summoned before Justice Wright, of the supreme court of the District of Columbia, and were found guilty (1) of bringing about a breach of the plaintiff's existing contracts with others; (2) of depriving plaintiff of property (the value of the good-will of its business) without due process of law; (3) of restraining trade among the several states; and (4) of restraining commerce among the several states. They were sentenced to twelve, nine and six months respectively in prison for violation of the injunction forbidding them to do these things. At this writing the case has been appealed to the court of appeals of the District of Columbia, and probably it will go to the United States Supreme Court.

With the foregoing decisions should be contrasted one rendered by the supreme court of Montana. An injunction was secured against the Montana Federation of Labor prohibiting it "from declaring the plaintiff unfair, or from boycotting the plaintiff, or from printing, publishing, circulating, posting or distributing any circulars" *etc.* intended to injure the plaintiff. Only two facts of consequence were proved against the defend-

[1] Vilter Manufacturing Company *v.* Humphrey, 112 Northwestern Rep. 1095.

[2] Barnes and Company *v.* Chicago Typographical Union, 83 Northeastern Rep. 932.

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ants, *viz.*, that they had boycotted the plaintiff and that they had published and distributed circulars making known this fact. The supreme court, in reversing the decision of the district court, held that the union workingmen had committed no unlawful act in withdrawing their patronage from the plaintiff, since he had no property right in their trade. No one would contend that it was unlawful for an individual, acting alone, to withdraw his trade from any particular firm. Continuing for the court, Mr. Justice Holloway said:

> But there can be found running through our legal literature many remarkable statements that an act perfectly lawful when done by one person becomes, by some sort of legerdemain, criminal when done by two or more persons acting in concert, and this upon the theory that the concerted action amounts to a conspiracy. But with this doctrine we do not agree. If an individual is clothed with a right when acting alone, he does not lose such right merely by acting with others, each of whom is clothed with the same right. If the act done is lawful, the combination of several persons to commit it does not render it unlawful. . . It is the illegality of the purpose to be accomplished, or the illegal means used in furtherance of the purpose, which makes the act illegal.

Assuming that the boycott itself was not illegal, the court then asks if the means of enforcing it, the printing and distribution of circulars, was illegal. Could a court of equity enjoin the publication of such circulars, either by an individual or by individuals acting in concert? Justice Holloway continued:

> Article 3 of our constitution . . . reads as follows: "No law shall be passed impairing the freedom of speech; every person shall be free to speak, write or publish whatever he will on any subject, being responsible for all abuse of that liberty." . . . The one fundamental idea conveyed by this section is penalty for a violation of the privilege, not prevention of its abuse. The language of the section is not susceptible of any other meaning than this: that the individual citizen of Montana cannot be prevented from speaking, writing or publishing whatever he will on any subject. If, however, what he writes or publishes constitutes a criminal libel, he may be held responsible for the abuse of the liberty in a criminal prosecution; or, if what he speaks, writes or pub-

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lishes wrongfully infringes the rights of others, he may be held responsible for the abuse in a civil action for damages. But it is suggested by counsel for respondent that these defendants are insolvent, and that a judgment for damages would be worthless. Even granting this to be so, still the constitution does not discriminate among men according to the amount of their possessions. The guaranty of this section extends as fully to the poorest as to the wealthiest citizens of the state; and, though the abuse of the liberty so guaranteed may result in loss for which there can not be any adequate compensation, the framers of our constitution in preparing it, and the people in adopting it, doubtless concluded that it was better that such result be reached in isolated cases than that the liberty of speech be subject to the supervision of a censor. To declare that a court may say that an individual shall not publish a particular item is to say that the court may determine in advance just what the citizen may or may not speak or write upon a given subject—is, in fact to say that such court is a censor of speech as well as of the press.[1]

The decisions thus far cited take little account of any interest in industrial freedom save that of the employer and the employee; but an Ohio judge of the court of common pleas, Phillips, holds that the community has a vital interest in the maintenance of industrial freedom and that neither individuals nor associations may enter into agreements to restrict it. This opinion was elicited in proceedings for the dissolution of the Amalgamated Window Glass Workers of America as an illegal association. In proof of the illegality of this union extracts were read from its rules, which showed that it sought to prevent any one not a member or apprentice of the union from working at the trade of window-glass blower, gatherer, flattener or cutter, that it was seeking to limit the number of glass workers, that it sought to put restrictions upon the work of its own members and upon their freedom of contract, and, finally, that it sought to control manufacturers. Two of the many rules of the union will serve as examples:

No one not a member of the Amalgamated Window Glass Workers of America shall be allowed to work at any of the four trades, excepting our own apprentices.

[1] Lindsay and Company *v.* Montana Federation of Labor *et. al.*, 96 Pacific Rep. 127.

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All ten-pot furnaces shall be required to employ three flatteners, and no flattener shall flatten more than four pots, unless the president and executive board [of the union] deem it absolutely necessary.

Speaking of this union Judge Phillips said:

Because these men are skilled in the manufacture of an important article of commerce, they are able to contribute, in a special way and in special measure, to the productive industry of the community. Therefore the community has a special interest in the industrial freedom of these men and [of] each of them. One of these men could not obligate himself not to work at his trade. He might, of choice, decline to pursue his trade; but he could not obligate himself not to work at his trade; and if he should enter into a contract never again to work at his trade, the courts would not enforce the contract. Such contract would be against public policy. It would impair the industrial freedom in which the public is interested, and which it is the duty of the government to protect and promote . . . [Every member of an association with rules such as those quoted above] has surrendered his individuality, and his industrial freedom, and is no longer a personal factor in the industrial world. This is violative of fundamental personal rights, and of public rights, and is therefore unlawful.[1]

For this reason the association was dissolved and a receiver appointed.

Contracts such as the foregoing were declared to be illegal at common law as detrimental to society rather than to the individuals making them.

Some of the states and the United States have assumed the right to impose statutory limitations upon industrial freedom in several particulars, especially in the realm of contract. The famous anti-trust law of Texas forbids certain combinations of capital in restraint of trade, and a law passed two days later legalizing labor unions was held not to render the former law null and void.[2] A statute of Arkansas providing for the redemption in cash, at face value, of all scrip, punch-outs *etc.* issued as evidence of indebtedness to laborers was upheld by

[1] Kealy *et al. v.* Faulkner *et al.*, 18 [Ohio] Superior and Common Pleas Decisions, 498.

[2] Waters Pierce Oil Company *v.* State, 106 Southwestern Rep. 918.

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the supreme court of the state. It was declared to be within the power of the legislature to regulate, in the interest of the public, the right of contract belonging to corporations which derive that right from the legislature.[1] A law of Washington requiring barbers to be examined and to procure licenses before practicing their trade was attacked as an abridgment of the liberty of the citizen and as tending to create a monopoly; but the supreme court of the state upheld it on the ground that the business in question has an intimate relation to the public health and is therefore subject to police regulation.[2]

The courts are generally inclined to sustain laws limiting the amount of labor or the kind of labor which minors and women may undertake. Judge Elkin, speaking for the supreme court of Pennsylvania, declared that to fix the age limit below which boys should not be employed in certain work about mines was a valid exercise of the police power.[3] A similar law was attacked in New Jersey as being violative of the bill of rights in the state constitution (which says that all men are by nature free and independent and have certain natural unalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property, and of pursuing and obtaining safety and happiness) and also as abridging the privileges of citizens of the United States. In speaking for the court Judge Garrison held that the term "all men" did not include minors, who are the special wards of the state.[4]

In Montana a law restricting the freedom of contract of adult males has been sustained. The law in question limited the hours of labor of train crews to sixteen out of twenty-four and required that the men should have eight hours of rest before going on duty again. Said Judge Brantly:

It is apparent to every one that a continuance beyond a reasonable time each day in the performance of the exacting duties incident to an employment that is always attended with danger tends to impair both

[1] Union Sawmill Company *v.* Felsenthal, 108 Southwestern Rep. 217.

[2] State *v.* Walker, 92 Pacific Rep. 775.

[3] Lenahan *v.* Pittston Coal Mining Company, 67 Atlantic Rep. 642.

[4] Bryant *v.* Skillern, 69 Atlantic Rep. 23.

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the health and the efficiency of employees and should not be permitted except in cases of necessity.

To limit the hours of such labor was declared to be a proper exercise of the police power.[1]

It will be remembered that the United States Supreme Court has not been willing to sanction such restrictions of the freedom of contract of adult males, declaring that a New York law limiting work in bakeshops to ten hours per day was in conflict with the fourteenth amendment. It has, however, taken a different view of the limitation of hours of women's labor. An Oregon law limiting female labor in any mechanical establishment, factory or laundry to ten hours per day has been upheld. The reasons that make against limitation of men's right to work do not apply to women. "Woman's physical structure and the performance of maternal functions," the court declares, "place her at a disadvantage in the struggle for existence." Although much has been done to emancipate woman from the control which man established over her at the beginning, through superior physical force, the fact remains that, with all her increase in capacity for business, she is not an equal competitor with her brother. Theoretically she may be placed on equality with man by legislation, but "she will still be where some legislation to protect her seems necessary to secure a real equality of right." Being different from man, "she is properly placed in a class by herself, and legislation designed for her protection may be sustained, even when like legislation is not necessary for men and could not be sustained." Moreover, such limitations on her contractual right as those restricting her hours of labor "are not imposed solely for her benefit but also largely for the benefit of all."[2]

A law of similar intent was overthrown by the supreme court of Colorado, but solely because the legislature had left it to the discretion of the court to say to what industries the law should apply as being "dangerous to health, life or limb." In the view of the court the constitution commanded the legis-

[1] State *v.* Northern Pacific Railway, 93 Pacific Rep. 945.

[2] Muller *v.* State, 28 Supreme Court Rep. 324.

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lature to pass upon that question itself, and the law was held to be unconstitutional because of the attempt to delegate legislative power.[1]

There are limits beyond which the state may not go in regulating and restricting industrial freedom, although the line of division may at times seem shadowy. While the Arkansas law requiring the redemption of scrip in cash was upheld by the judiciary of that state, the Indiana supreme court declared unconstitutional a statute providing that companies, corporations and associations should pay their employees engaged in mechanical or manual labor at least once a month. Judge Monks declared that this statute contained a denial of the equal protection of the laws, since it gave to those engaged in mechanical or manual labor the right to demand their pay at least once a month but denied the right to other employees of the same companies. Moreover, it accorded no such right to mechanics working for individuals.[2]

Another important limitation upon the legislative power to restrict industrial freedom was recognized by the United States Supreme Court in passing upon the Erdman act. This act of Congress made it unlawful for an employer to discharge an employee on account of membership in a labor organization. In passing upon the act the court said that it was an invasion of the fifth amendment, which says that no person shall be deprived of liberty or property without due process of law. Said Mr. Justice Harlan:

> Such liberty . . . embraces the right to make contracts for the purchase of the labor of others and equally the right to make contracts for the sale of one's own labor; each right, however, being subject to the fundamental condition that no contract, whatever its subject matter, can be sustained which the law, upon reasonable grounds, forbids as inconsistent with the public interests or as hurtful to the public order or as detrimental to the common good.

Justice Harlan then quoted from Lochner *v.* New York a state-

[1] Burcher *v.* People, 90 Pacific Rep. 14.

[2] Toledo, St. Louis and Western Railroad Company *v.* Long, 83 Northeastern Rep. 757.

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ment that such restrictions were imposed in virtue of the police powers, which

> relate to the safety, health, morals and general welfare of the public. Both liberty and property are held on such reasonable conditions as may be imposed by the governing power of the state in the exercise of these powers; and with such conditions the fourteenth amendment was not designed to interfere. . . . [Although] there was a difference of opinion in that case among the members of the court as to certain propositions, there was no disagreement as to the general proposition that there is a liberty of contract which cannot be unreasonably interfered with by legislation.

Applying the law to the case at bar, Justice Harlan declared that it was the legal right of the defendant, Adair, to discharge an employee because of his membership in a labor organization, and it was equally the right of the employee to quit the service of the defendant because he employed persons who were not members of labor unions, although such conduct on the part of either may have been unwise. "In all such particulars employer and employee have equality of right, and any legislation that disturbs that equality is an arbitrary interference with the liberty of contract which no government can justify in a free land." The right of such interference cannot be found under the power of Congress to regulate interstate commerce, for this regulation cannot be made "without any regard to any question of personal liberty or right of property." Besides: "What possible logical or legal connection is there between an employee's membership in a labor organization and the carrying of interstate commerce?" None; consequently Congress can have no power to legislate on the subject under that head.[1]

In a dissenting opinion Mr. Justice Holmes said:

> The section is a very limited interference with the freedom of contract, no more. It does not require the carriers to employ any one. It does not forbid them to refuse to employ any one, for any reason they may deem good. . . . The section simply prohibits the more powerful party to exact certain undertakings or to threaten dismissal or unjustly to dis-

[1] Adair *v.* United States, 28 Supreme Court Rep. 278.

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criminate against those already employed. . . . I confess that I think that the right to make contracts at will that has been derived from the word liberty in the amendments has been stretched to its extreme by these decisions, but they agree that sometimes the right may be restrained. Where there is, or generally is believed to be, an important ground of public policy for restraint, the constitution does not forbid it, whether this court agrees or disagrees with the policy pursued.

Three ideas stand out prominently in these decisions. The first is that, while the government should follow the general principle of "hands off," it may and must intervene to maintain equality, if this equality as between man and man—or, more precisely, between male and male—is threatened by the active interference of one person with another. No recognition is given to the idea that a weak male may need help to put him on a plane of equality. This idea appears in questions relating to the employment of women and children, as was brought out in the decisions quoted above. Although by law woman may be placed on a theoretical equality with man, the fact of her inequality, due to weakness, remains, and the courts will take account of it. Since woman is different from man, "some legislation seems necessary to secure a real equality of right." No such distinctions, however, are admissible as regards men. One star may differ from another star in glory, but the law says that one man differs not from another man in strength.

The constitution does not recognize the distinction between man and woman made by the courts; this distinction rests upon the common law. A great deal of the common law has been outgrown, and a great deal of it has been changed because inapplicable to modern conditions. Occasionally a judge, generally in the minority, gets hold of the idea that the abstract equality of males does not work out well in practice. Such is the meaning of Mr. Justice Holmes's dissenting opinion quoted above, where he speaks of legislation necessary to put the weaker on terms of equality with "the more powerful party."

The second idea is that, while interference with industrial freedom may occasionally be justified, it is justifiable only on grounds of public policy, and it must not be unreasonable.

The third idea grows out of the second and answers the ques-

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tion: Who shall decide what is for the public welfare and what is reasonable? Where can be found the bar of reason to which appeal shall be made? In themselves, say the courts. A legislature may pass a law requiring barbers to be examined and to procure licenses before practicing their trade, and this is a reasonable interference with industrial freedom, because the barber comes in personal contact with others and may endanger health. A legislature may think that an unskilled plumber may also endanger health, but the courts say that such thoughts are unreasonable, "because the business of plumbing does not bring the plumber in personal contact with the public." A state legislature and court may think it reasonable to forbid the members of train crews to work more than sixteen hours out of twenty-four, but the United States Supreme Court deems it unreasonable to forbid men to work more than ten hours in bakeshops.

On the whole, the prevailing tendency has been to justify interference with industrial freedom, and so far the decisions of the year may be regarded as good. The courts, with one exception, even say that the liberty of the press may be restrained when used to make the boycott effective. These decisions have created a great deal of dissatisfaction in labor circles, but they are likely to stand, at least until our law recognizes inequalities among men. The citizen is guaranteed the right to bear arms, but he may be restrained from using them to the injury of his neighbor, and this, too, before the injury is done. Is it unreasonable to apply the same rule to the press? So far as the writer is aware, the blacklist has never been declared illegal; but, if a case were brought up involving this question, the court must, in the light of the boycott decisions, put the blacklist in the same category. Also combinations of capital to fight organized labor should be put under the ban.

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THE CONSTITUTION OF OKLAHOMA

MR. BRYCE has commended to scholars the study of our state constitutions on account of their historic interest and their value for the science of comparative politics. In them, he urges with good reason, one may read the annals of legislative and political sentiment more easily and more succinctly than in any similar series of laws in any other country.[1] It may be added that these fundamental laws are all the more instructive to the student of practical politics, because they contain, in a large measure, the definite rules of law which are steadily being devised to meet concrete problems as social pressures from various directions bring them within the sphere of legislation. In fact, it is highly probable that the political philosopher who considered them in the abstract would go far astray; because they mainly reflect the legal adjustments which have accompanied the material development of our country and are well-nigh meaningless to anyone not acquainted with the course of our economic evolution during the past century. From this point of view, the constitution of the recently admitted state of Oklahoma possesses a unique interest, for its framers have searched with great assiduity among the fundamental laws and statutes of all the other states for the latest inventions known to American politics and have worked them into a voluminous treatise on public law—a mosaic in which the glittering new designs of "advanced democracy" appear side by side with patterns of ancient English make.

I. Structure of the central government.

In the bold framework of this new government, there is little that is novel or striking, and it would be a work of supererogation to describe it in detail. Accordingly we consider only the newer devices which have a special significance in showing the general tendencies in our constitutional development.

[1] American Commonwealth, vol. i, p. 450.

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In the midst of a movement, commended by the experience of many states,[1] toward an integration of the administrative system into a responsible hierarchy and the centralization of control in the hands of the governor, Oklahoma has gone almost as far as possible in the other direction. In fact, faith in the check and balance system as a guarantee of efficiency and justice in administration is expressly stated in the article ordering the legislature to provide by law for the establishment and maintenance of

> an efficient system of checks and balances between the officers of the executive department, and all commissioners and superintendents and boards of control of state institutions, and all other officers entrusted with the collection, receipt, custody or disbursement of the revenues or moneys of the state whatsoever.

In accordance with this scheme of government, not only are the old executive officials—secretary of state, auditor, attorney-general and treasurer—elected by popular vote, but also the newer authorities—superintendent of public instruction, insurance commissioner, state examiner of state and county accounts, commissioner of labor, mine inspector and commissioner of charities. The corporation commission, which in New York is appointed by the governor by and with the advice of the Senate, is composed in Oklahoma of three members elected by the voters of the state for a term of six years, one member going out bien-

[1] It must be admitted, however, that some of the states are going in the direction of popular election. Governor Blanchard, of Louisiana, in his message of May 14, 1906, said: "In my inaugural address I recommended to this General Assembly at its first session, that action be taken on the line of relegating to the people the filling by popular vote of offices under the state government that were filled by appointment of the governor. Much then was done in this direction. The judges of the supreme court, theretofore appointed by the governor, were made elective. The register of the State Land Office and the commissioner of agriculture and immigration, theretofore appointive, were made elective the same as other state officers. So also vacancies occurring in the offices of district judge, district attorney, sheriff and clerk of court, which vacancies when occurring had heretofore been filled by appointment of the governor, are now filled by election of the people at special elections called for the purpose." On the other hand, Governor Hughes, of New York, in his 1909 inaugural address inveighed against the irresponsibility engendered by the decentralized elective system.

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nially. Over this decentralized and independent administrative system, the governor has only general supervisory power. He must, of course, see that the laws are executed, and he may require information under oath from all the officers and commissioners of the state on any subject relating to the discharge of their public functions; but he has no coercive authority over the chief administrative officers through the disciplinary power of appointment and removal. By way of compensation, however, he is given a term of four years in which to learn that art of control which is unknown to the formal legal methods.[1]

All elective state officers, including the justices of the supreme court, are liable to removal by the process of impeachment "for wilful neglect of duty, corruption in office, habitual drunkenness, incompetency, or any offense involving moral turpitude committed while in office."

In determining the number of members which the legislature shall contain, constitution makers in the United States have apparently arrived at no consistent principles. A study of twenty-one states having a population of between one and three millions reveals an average of forty in the Senate and one hundred and fifteen in the House.[2] Oklahoma somewhat approaches the average by having forty-four senators and one hundred and nine representatives; but when compared with the fifty-one senators and one hundred and fifty assemblymen in New York, with a population of over seven millions, the number seems decidedly out of proportion. Following the example set by a majority of the states, biennial election of the members of the lower house is provided[3] and the senatorial term is put at four years, one-half retiring biennially. Biennial sessions of the legislature are also provided; but to induce the members to confine their operations within a limit of sixty days it is ordered that they shall receive $6.00 per day during that period and

[1] Goodnow, Politics and Administration, p. 173.

[2] Dealey, Our State Constitutions (1907), p. 43.

[3] According to Professor Dealey, three states in 1905 had quadrennial elections for the lower house; Georgia, Massachusetts, New Jersey, New York, Rhode Island and South Carolina had annual meetings; and all the other states held biennial elections. *Ibid.*, p. 45.

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only $2.00 for each day's attendance thereafter. Accordingly, unless patriotic devotion to law-making or some other important considerations are brought to bear, Oklahoma need not be expected to contribute more than her quota to that vast mass of statutes which Judge Parker estimated at 25,000 pages a year.[1] This precise limitation, however, may impose on the legislators that "severe nervous strain" under which it is said Indiana law-makers labor to complete their necessary work within the sixty-one days prescribed by the constitution.[2]

Except for some important limitations on procedure which will be considered below, the Oklahoma judicial system presents few features of interest. The justices of the supreme court, however, are selected by a rather novel process: the state is divided into five districts; in each district candidates are to be nominated at the primaries by the political parties or by petition; such candidates are voted for by the qualified voters of the state at large, no elector voting for more than one candidate from each district; and the candidates receiving the highest number of votes in the state are, severally, the justices-elect of the particular districts from which they are nominated. In order to expedite judicial business Oklahoma has not resorted to the drastic device of refusing to pay the justices of the supreme court until they have finally decided the cases before them—a method now in force in several states[3]—but it simply orders them to render a written opinion in each case within six months after it has been submitted. This may have the salutary effect of abbreviating the absurdly long opinions which our courts are prone to inflict on the suffering public; at all events it will prove an interesting experiment.[4]

II. Special restrictions on the authorities of the state.

The crowning restriction on the delegated authorities of the

[1] Proceedings of the American Political Science Association, 1907, p. 105.

[2] *Ibid.*, p. 103. [3] Dealey, *op. cit.*, p. 41.

[4] It is estimated that there are in America alone over six thousand volumes of decisions, and that from one to two hundred volumes are being added annually. Proceedings of the American Political Science Association, 1907, p. 83. Certainly it is time to restrict the loquacity of our law speakers.

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state is the express retention of the law-making power in the hands of the voters through a system of initiative and referendum. This newer contrivance of institutional democracy has already found its way into the constitutions of many states; and Oklahoma has followed the example of Oregon so closely that almost the exact words of the amendment adopted in that state in 1902 have been accepted:

> The legislative authority of the state shall be vested in a legislature, consisting of a senate and a house of representatives; but the people reserve to themselves the power to propose laws and amendments to the constitution and to enact and reject the same at the polls independent of the legislature, and also reserve power at their own option to approve or reject at the polls any act of the legislature.

Even the Oregon requirement as to the title of the bills has been adopted, and the style of all measures is to be "Be it enacted by the people of the state of Oklahoma"; and further to demonstrate the majesty of the people, the veto power of the governor shall not extend to measures voted on by them.

An ordinary legislative measure may be initiated by eight per cent of the legal voters and ratified by a simple majority of those voting in the election at which the particular proposition is submitted. The initiation of a constitutional amendment requires fifteen per cent of the voters, and goes into force when approved by "a majority of the votes cast thereon." Thus it may happen that a small proportion of the total number of voters may effect a fundamental revolution in the political system of the state. This provision is doubtless based on practical experience—on the popular indifference manifested in many states to proposals referred for approval. If a majority of all the legal voters were required, it might mean the defeat of

[1] On an amendment submitted to the voters of Kansas in 1906 only 60,000 votes were cast out of a total of 300,000 polled by the candidates for governor. In the same year an amendment to the constitution of Indiana was voted on by only one-twelfth of the voters who went to the polls. In the same year in Louisiana several important amendments were adopted by a vote of one-sixth of the electorate. J. W. Garner, in Proceedings of the American Political Science Association, 1907, p. 171. See, however, the large vote polled on referenda in Oregon. Biennial Report of the Secretary of State, 1907, p. 68a.

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almost every measure submitted.[1] To prevent the constant use of the initiative by persistent minorities as a means of agitation, it is provided that no measure rejected by popular vote may again be proposed within three years thereafter by less than twenty-five per cent of the legal voters.

All acts of the legislature, except laws necessary for the immediate preservation of the public peace, health or safety, must be referred to the people on a petition of five per cent of the legal voters or on the order of the legislature itself. The referendum petition must be filed with the secretary of state not more than ninety days after the adjournment of the session of the legislature which passed the act in question; and a majority of those voting on the measure is sufficient for approval or rejection. The referendum may be demanded on one or more items or sections or parts as well as on the whole bill; and to give the people time to prepare petitions, no act (except one carrying into effect the initiative and referendum provisions of the constitution or a general appropriation bill) can go into effect until ninety days have elapsed after adjournment, unless in case of emergency. The existence of an emergency is determined by a two-thirds vote of all the members elected to each house, the governor concurring. When executive disapproval is incurred, declarations of emergency must have a vote of three-fourths of the members of each house. As a result, probably, of the experience of South Dakota,[1] emergency acts are expressly limited to such measures as are immediately necessary for the preservation of public health, peace or safety; and they may not include the granting of franchises or licenses to corporations or individuals to extend for more than one year, nor provisions for the purchase or sale of real estate, nor the renting or encumbrance of real property for more than one year.

Special and local legislation is one of those thorny problems that apparently can neither be solved nor be let alone.[2] In this matter Oklahoma has borrowed from her sister commonwealth of Arkansas the check of publicity. No special or local law

[1] State *ex rel.* Lavin *et al. v.* Bacon (1901), 14 S. D. 394.

[2] Dealey, *op. cit.*, pp. 51–54.

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can be considered by the legislature until notice of the intended introduction of the proposed bill, stating in substance the contents thereof, is first printed for four consecutive weeks in some weekly newspaper published or having general circulation in the city or county affected by the bill. This requirement seems to ensure adequate publicity, and it will probably prevent that surreptitious publication which, as Professor Dealey points out, may very well defeat the operation of an otherwise excellent plan. This general restriction is further supplemented by a long list of particular subjects on which special legislation is forbidden except as otherwise provided.

To secure a wholesome separation of politics from private economy, it is ordered that a member of the legislature who has a personal or private interest in any measure or bill proposed or pending before the legislature must disclose the fact to the house of which he is a member and must not vote thereon. Furthermore, no member, during the term for which he is elected or within two years after its expiration, shall be interested directly or indirectly in any contract with the state, or with a county or subdivision thereof, authorized by any law passed during his time of service. For the species of corruption which this provision aims to prevent, the penalty is expulsion; and expulsion for this cause renders the member forever ineligible for election to either house.

The rule, now approved by the experience of several states, that the general appropriation bill shall contain nothing but appropriations for the expenses of the executive, legislative and judicial departments of the state and for interest on the public debt,[1] is adopted. Moreover no revenue bill can be passed during the last five days of the session. From among the variety of expedients designed to limit the taxing power of the legislature,[2] Oklahoma has selected a maximum rate of thirty-one and one-half mills on the dollar and the assessment of all property taxable *ad valorem* on the basis of a fair cash value. Provision is made that the state may select its objects of tax-

[1] Reinsch, American Legislatures and Legislative Methods, p. 189.

[2] Agger, The Budget in the American Commonwealths (Columbia Studies), p. 35.

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ation and levy its revenues independent of the counties, cities or other municipal subdivisions; but this separation of sources of revenue, which is clearly the tendency in the most advanced commonwealths, is not made obligatory upon the legislature. Lest that inherent power which abides in the legislature should not be deemed sufficient warrant for any radical schemes of taxation that the future may bring forth, it is expressly stipulated that the legislature shall have authority to levy license, franchise, gross revenue, excise and income taxes, collateral and direct inheritance, legacy and succession taxes, graduated income taxes, graduated collateral and direct inheritance taxes, graduated legacy and succession taxes, stamp, registration, production or other specific taxes. The work of equalization is entrusted to a state board composed of the governor, auditor, secretary of state, attorney-general, state inspector and examiner and the president of the board of agriculture.

Two very significant limitations on the authorities of the state are embodied in the clauses relating to *habeas corpus* and injunctions. Defying what seem to be "the plain teachings of history" that summary and drastic powers must occasionally be wielded by some officer of the state, Oklahoma has firmly declared that "the privilege of the writ of *habeas corpus* shall never be suspended by the authorities of this state." This subordination of military to civil authority in the matter of the great prerogative writ is accompanied by a positive limitation on the power of the judiciary in the granting of injunctions. The legislature, the constitution declares, shall pass laws defining contempts and regulating proceedings and punishments in cases of contempt; but every person accused of violating or disobeying an injunction out of the presence or hearing of the court is to be entitled to trial by jury to determine his guilt or innocence, and in no case shall penalty or punishment be imposed for contempt until the accused has had an opportunity to be heard.

III. Municipal and local government.

In the attempt to secure for towns and cities a large degree of "home rule," Oklahoma has adopted the system which has

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been instituted in Missouri, California, Colorado, Washington and Minnesota, namely, that of allowing certain municipalities to draft their own charters without legislative interference. Any city in Oklahoma containing a population of more than two thousand inhabitants may place the framing of its charter in the hands of a board of freeholders elected by the qualified voters of the place; and the document drafted by this municipal convention, when ratified by popular vote and approved by the governor, becomes the organic law of the city. Amendments to the charter may be made by the processes of initiative and referendum described in the next paragraph, but these also require the approval of the governor. The municipal charter is, of course, subject to the constitution and laws of the state; and the courts, when called upon to adjust conflicts over state and municipal functions, will find numerous precedents for their guidance in the experiences of other states where this mode of charter enactment is in force.[1]

Not only do the voters of the municipality control their own charter making, they retain supervisory powers over their agents by means of the initiative and referendum. Petitions initiating municipal measures or requiring referenda must be signed by twenty-five per cent of the number of persons who voted at the election just preceding. If the petition demands the enactment of an ordinance or a legal act other than the grant, extension or renewal of a franchise, it is presented to the municipal council, and, if approved there, becomes law without further reference to the voters. If it is rejected by the council, it must be referred to the voters and will go into effect if approved by the majority of those who vote thereon.

This popular supervision is developed to the highest degree in the matter of franchises. No municipal corporation can grant, extend or renew a franchise without submitting the measure to the people, and the proposed measure must receive the approval of a majority of the qualified voters residing within the corporate limits. Furthermore, the definite term of twenty-five years is fixed for all such grants, renewals or extensions,

[1] Goodnow, City Government in the United States, p. 93.

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and every municipal corporation in the state is given the right to undertake any business or enterprise which may be engaged in by any person, firm or corporation by virtue of a franchise from the city. No exclusive franchises can be granted, and the power to regulate the use and enjoyment of franchises as well as the charges made for public services is expressly retained.

In the sections relating to local government, the point of special interest is the extension of the principle of the initiative and referendum to the county and its subdivisions, as regards all local ordinances.

IV. Provisions relating to corporations and labor

The spirit of fierce opposition to monopolies and that jealousy of large business enterprises which have filled the statute books of western states with drastic measures, appear in almost every article of the Oklahoma constitution. In the bill of rights, perpetuities and monopolies are declared to be contrary to the genius of a free government, and corporations are excluded from several of the privileges and immunities secured to natural persons. Remembering, doubtless, that many men, eminent for their administrative capacities, are prone to forget business cares in the presence of investigating committees, the framers of Oklahoma's fundamental law have provided for unrestricted searches into the actual transactions of corporations, by explicitly stating that the records, books and files of all corporations shall be at all times subject to the full visitorial and inquisitorial powers of the state, notwithstanding the rights secured to persons and to citizens. And to refresh the memory of witnesses, it is ordered that no person having knowledge of facts tending to establish the guilt of any other person or corporation charged with an offence against the laws of the state shall be excused from presenting it on the ground that it might incriminate himself; but immunity from prosecution and punishment is guaranteed to persons so testifying. Lest the legislature should perchance overlook the matter, it is expressly ordered to enact laws defining unlawful combinations, monopolies, trusts and acts and agreements in restraint of trade, and to provide for the punishment of offenders.

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The realization of these policies is, however, by no means left to the uncontrolled devices of the legislature. The constitution creates a corporation commission, composed of three members elected for terms of six years by popular vote, one of them retiring every two years. In all matters pertaining to the public visitation, regulation or control of corporations and within its jurisdiction, the commission has the powers and authority of a court of record, and may administer oaths and compel the attendance of witnesses and the production of papers. It may punish for contempt any person guilty of disorderly or disrespectful conduct in its presence, and may enforce compliance with its lawful orders and requirements by imposing fines and penalties provided by law—always after affording due process to the party or parties affected.

The powers of the commission leave nothing to be added. It is charged with the duty of supervising, regulating and controlling all transportation and transmission companies doing business within the state, in all matters relating to the performance of their public duties and their charges therefor. It is also to correct abuses and to prevent unjust discrimination and extortion by such companies; and, in order to fulfill its general purposes, it is instructed to prescribe and enforce, against the various concerns coming within its supervision, reasonable and just rates, charges, classifications, rules, regulations and requirements.

Ample provision is made for collection of the information concerning the business of the companies which may be required in the discharge of the obligations imposed upon the commission. It is empowered, at all times, to inspect the books and papers of transportation and transmission companies doing business within the state and, furthermore, to require such companies from time to time to make special reports under oath concerning their affairs. The commission is instructed to keep itself fully informed on the physical condition of all the railroads of the state and the manner in which they are operated, with reference to the security and accommodation of the public; and it must take measures "to prevent unjust or unreasonable discrimination and extortion in favor of or against

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any person, locality, community, connecting line, or kind of traffic, in the matter of car service, train or boat schedule, efficiency of transportation or transmission." In the exercise of this enormous supervisory power, the commission is controlled by elaborate provisions requiring due process in the matter of notice, hearing and appeal to the courts.

Not content with prescribing general regulations for the commission and leaving the rest to the legislature, the framers of the constitution have embodied in the fundamental law many express provisions controlling matters of detail. In the first place, they have ordered that the whole physical structure of the railway and public-service business shall be laid bare—one is tempted to say, naked—before the public. The commission must ascertain and keep as a matter of public record the amount of money expended in the construction and equipment per mile of every railroad and public-service corporation in Oklahoma, the amount of money expended to secure the right of way and, furthermore, the amount of money it would require to reconstruct the road bed, track, depots and transportation facilities, and to replace all the physical properties belonging to the railroad or public-service corporation. The commission must also ascertain the outstanding bonds, debentures and indebtedness and the amount thereof; when issued and the rate of interest; when due; for what purposes issued; how used; to whom issued; to whom sold, and the price in cash, property or labor (if any) received therefor; what became of the proceeds; by whom the indebtedness is held, and the amount purporting to be due thereon; the floating indebtedness of the company, to whom due and the residence of the creditor; the credits due on it; the property on hand; and, finally, the judicial or other sales of the said road, its property or franchises and the amounts purporting to be paid therefor. After having thoroughly analyzed the physical structure of the system, the commission must ascertain the salaries and wages paid by the railroads and public-service corporations.

The present status of railway and public-service corporations is thus to be carefully and minutely described, and then the future is to be safeguarded. It is expressly ordered that no

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corporation shall issue stock except for money, labor done or property actually received to the amount of its par value; all fictitious issues of stock or indebtedness are void; stock and bonded indebtedness shall not be increased except in accordance with the general law and with the consent of the persons holding the larger amount in value of the stock duly obtained at a meeting held after thirty days' notice. Each railway and public-service corporation doing business in the state must, in addition, maintain a public office where its business shall be transacted, stock transfers recorded, with the amount paid and the names of the owners, and books kept showing the assets and liabilities of the concern. The directors of such corporations must meet annually after due notice and make reports as required by law.

After ordering physical valuation and prescribing these rules designed to prevent stock-watering, the Oklahoma constitution makers lay down some very particular regulations concerning the management and conduct of corporate business. In the first place, there are to be no mergers in the state, except under specific conditions. No public-service corporation can consolidate its stock, property or franchises with, or lease or purchase the works or franchises of, or in any other way control any other public-service corporation owning or having under its control a competing or parallel line, except by legislative enactment upon recommendation of the corporation commission. Furthermore the legislature is expressly forbidden to authorize such consolidations with corporations organized under the laws of other states or the United States and holding or controlling competing lines in Oklahoma. No railway, transportation or transmission corporation can under any circumstances consolidate with concerns organized out of the state.

Turning to corporations in general, the constitution provides that no corporation chartered or licensed to do business in the state shall hold, own or control in any manner whatever the stock of any competitive corporation or corporations engaged in the same kind of business in or out of the state, except such stock as may be pledged in good faith to secure *bona fide* indebtedness, and in such cases the said stock must be sold

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within twelve months. In fact, the competitive system is to be maintained in every field of business; for, until otherwise provided by law, no person, firm, association or corporation engaged in the production, manufacture or sale of any commodity of general use may attempt to destroy competition or create a monopoly by discriminating between persons, associations, corporations, different sections, communities or cities of the state, or by selling lower under some circumstances than others, due allowance being made for cost of transportation and difference in grade and quantity.

Though competition is to be upheld in the railway business, its full consequences are not to be accepted. A flat rate of two cents a mile for carrying passengers is imposed until otherwise provided by law, subject to the reservation that the corporation commission may exempt any railroad from the operation of this restriction if it can be shown that a just compensation cannot be earned under it. Moreover, coöperation among competing concerns, subject to state supervision, is made mandatory. Every railroad, oil-pipe, car, express, telephone or telegraph corporation or association authorized to do a transportation or transmission business within the state shall have the right to intersect, connect with or cross any other road or line. All railroad, car or express companies must receive and transport one another's cars, tonnage or passengers without delay or discrimination, under the supervision of the corporation commission. All telephone and telegraph lines, operated for hire, shall receive and transmit one another's messages and make physical connections under the rules prescribed by law.

And finally there is inserted a clause whose requirements will cause readjustments as far away as New Jersey. No corporation, foreign or domestic, can do business within the state without first filing with the corporation commission a list of its stockholders, officers and directors, with the residence and post-office address of each and the amount of stock held by each. And every foreign corporation, before being licensed to do business, must designate an agent residing in the state on whom summons or other legal notice may be served. No foreign insurance company may receive a license or do business

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within the state until it has complied with the laws of the state and has deposited such collateral or indemnity for the protection of its patrons within the commonwealth as may be prescribed by the legislature. It must also agree to pay the taxes and fees imposed by law.

The farmers are to be specially protected from the real-estate corporations by a unique process. No corporation may be created or licensed in the state for the purpose of dealing in real estate other than that located in incorporated towns and cities or additions thereto. Corporations in general are not precluded from acquiring titles by the foreclosure of mortgages, but they must dispose of property so acquired within a period of seven years. Public-service corporations may not hold any land except such as is indispensable to the transaction of their necessary business.

The familiar claims of labor are met in the spirit of the motto inscribed upon the seal of the state: *Labor omnia vincit.* Eight hours shall constitute a day's work in all cases of employment by and on behalf of the state or any county or municipality—a provision which extends the eight-hour rule to workmen employed by contractors in the service of the government, state and local. The contracting of convict labor is prohibited. The use of the injunction, as remarked above, is carefully restricted; and the common-law doctrine of the fellow-servant, so far as it affects the liability of the master for injuries to his servant resulting from acts or omissions of any other servant or servants of the common master, is abrogated as to every employee of every railroad company, street railway company, inter-urban railway company, and of every person, firm or corporation engaged in mining in the state. The defense of contributory negligence or of assumption of risk shall, in all cases whatsoever, be a question of fact for the jury. The right of action to recover damages for injuries resulting in death shall never be abrogated, and the amount recoverable shall never be subjected to statutory limitations. No rights under the constitution can ever be waived by contract, express or implied.

The constitution creates a department of labor, headed by a commissioner elected for a term of four years by popular vote.

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It also commands the legislature to establish a board of arbitration and conciliation in the department of labor with the commissioner at its head. The general conditions of industrial arbitration are left to the discretion of the legislature, except that every license or charter granted to a mining or public-service corporation, foreign or domestic, shall contain a stipulation to the effect that such corporation will submit to arbitration differences with its employees in reference to labor.

The legislature is ordered to pass laws to protect the health and safety of employees in factories, in mines and on railroads. Two clauses are added on the subject of child and woman labor. The employment of children in any occupation injurious to health and morals or especially hazardous to life or limb is prohibited. Boys under sixteen and women and girls are prevented from working underground in the mines. Following the well-established precedents of other states, it is provided that eight hours shall constitute a day's work in all mines within the state.

V. Miscellaneous

Lest the Oklahoma law-makers should not prove amenable to the growing pressure of public opinion, which has so recently placed elaborate primary laws upon the statute books of Wisconsin, Illinois, Kansas, New Jersey and many other states, the constitution makes it mandatory upon the legislature to enact laws creating a compulsory primary system, which shall provide for the nomination of all candidates in all elections for state, district, county and municipal officers, including United States senators, and which shall apply to all political parties, reserving of course to the people the right to name non-partisan candidates by petition. The completion of the plan for popular election is left to the legislature. All corporations organized or doing business within the state are forbidden to influence elections or official duty by the contribution of money or anything of value.

Both in the bill of rights and in the body of the constitution there are several departures from the traditional Anglo-Saxon legal doctrines; but most if not all find precedents in the newer constitutions of other states and thereby fall in with certain gen-

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eral tendencies in American legal evolution. Prosecution for felony and misdemeanor by information as well as by indictment is expressly sanctioned; but no one may be prosecuted by information for felony without having first had a preliminary hearing before an examining magistrate or having waived such hearing. When the grand jury is employed, the concurrence of nine men out of twelve is sufficient for the return of a true bill. In county courts and courts not of record, the petty jury shall consist of six men; and in civil cases and criminal cases involving crimes less than felonies three-fourths of the whole number of jurors may render a verdict. The provision relating to criminal libel is the same as that contained in the constitutions of the more conservative states, for example, in that of New York. In all criminal prosecutions for libel, the truth of the matter alleged to be libelous may be given in evidence to the jury, and if it appear to the jury that the matter charged as libelous is true or was written with good motives and for justifiable ends the party shall be acquitted. The rule of law that a person is not required to give evidence tending to incriminate himself when testifying against any other person or corporation is abrogated, and the "immunity bath" is substituted, as has been pointed out above. Likewise the common-law doctrine of the fellow-servant has been set aside in certain cases mentioned above, and the defence of contributory negligence is declared to be a question of fact to be submitted to the jury.

The Oklahoma constitution does not show quite that "wholesome anxiety to protect and safeguard private property in every way" which Mr. Bryce observed as one of the excellent features in American constitutional development. It is true that it contains express provision that "private property shall not be taken or damaged for public use without just compensation"; but at the same time it declares that "the right of the state to engage in any occupation or business for public purposes shall not be denied or prohibited, except that the state shall not engage in agriculture for any other than educational and scientific purposes and for the support of its penal, charitable and educational institutions"—an exception clearly bucolic in its origin. Also every municipal corporation, as

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has been indicated, may engage in any business or enterprise which might be carried on privately under a franchise from the city. In case the state should engage in business on such a large scale as to destroy the enterprises of private persons, would claims for compensation lie against it, or would the Oklahoma courts extend to the body politic that principle laid down by the English courts with reference to private corporations, namely that damages are not recoverable for injury done in the ordinary course of competition?[1]

There also are evidences of that philanthropy and humanitarianism which Mr. Bryce declared to be mingled in our state politics with folly and jobbery "like threads of gold and silver woven across the warp of dirty sacking." Educational and reformatory institutions, those for the benefit of the insane, blind, deaf and mute and such other institutions as "the public good may require" are to be established and supported by law. The creation of a system of free schools and compulsory education in the common branches is made obligatory on the legislature. The manufacture and sale of liquor as a beverage are forbidden. There is a generous exemption of homesteads from forced sales, except for the payment of purchase money, improvement charges, taxes and mortgages. The legal rate of interest in the absence of contract is fixed at six per cent, and the maximum rate is placed at ten per cent. Laws are to be enacted, as pointed out above, for the protection of the health of employees in mines, factories and on railways, and for the protection of women and children in industries. It is not only the state that assumes humanitarian obligations; the several counties shall provide, under the general prescriptions of the law, "for those inhabitants who, by reason of age, infirmity or misfortune, have claims upon the sympathy and aid of the county."

Two or three clauses set us to wondering whether Oklahoma imagines that Calhoun is still alive. The first section of the first article declares that "the state of Oklahoma is an inseparable part of the Federal Union," as if some Buchanan in the

[1] Webb, Industrial Democracy (edition of 1902), p. xxix.

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president's chair at Washington might forget it in case of an incipient movement for secession.[1] In the same section it is expressly acknowledged that the "Constitution of the United States is the supreme law of the land"; but treaties and laws made in accordance with that constitution are omitted. Perhaps because Congress is seen to be dilatory in enforcing the suffrage section of the fourteenth amendment (the Republican platform of 1904 notwithstanding), Oklahoma includes in her constitution the fifteenth amendment. The article regulating corporations is expressly restricted in its application so as not to conflict with any of the provisions of the constitution of the United States: the obligation of contract shall not be impaired, and due process must run everywhere throughout the state. Finally in reserving to the people the right to alter this constitution in the future, section one of the bill of rights warns them that such changes as may be made must not be repugnant to the fundamental law of the United States.

In its provisions for amendment, the Oklahoma constitution seems to comply in general with the canons recently laid down by Professor Garner in a careful comparative study.[2] It provides in the first place for the two ordinary methods of change—for revision in state convention and for specific alterations by legislative reference to popular vote—and it adds a third expedient, amendment by popular vote on an initiative petition. A constitutional convention may be called by the legislature only with popular approval on a referendum vote, but the question whether a convention shall be called must be sub-

[1] Similar provisions, however, are contained in a large number of state constitutions. See the interesting debate in the New York Convention of 1894 over the proposal to insert a section acknowledging the supremacy of the constitution, laws and treaties of the United States. Revised Record of the Constitutional Convention of 1894, vol. i, pp. 1037 *et seq.*

[2] *Political Science Review*, vol. i, no. 2, pp. 213–247. Oklahoma has fallen into what Professor Garner regards as the error of not making exact provisions for the composition and procedure of future constitutional conventions. Its brief mention should be compared with the elaborate details laid down in art. xiv, sec. 2 of the New York constitution. However, with the initiative and referendum and easy legislative reference there will probably be no early need for a convention in Oklahoma. In fact the constitution seems to anticipate about everything that may happen within a reasonable time.

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mitted to the people at least once in twenty years. Furthermore, all revisions made in convention must be ratified by popular vote. The legislature may also initiate an amendment by a simple majority vote of both houses; the proposition then goes to the people at a general election or, if two-thirds of each house concur, at a special election, where a majority of those voting is sufficient to ratify. Amendments may also be initiated by fifteen per cent of the legal voters, and, when ratified by a majority of the people voting thereon, they become a part of the fundamental law of the state.

This remarkable political document has been rather severely criticized in many quarters on the ground that it is a radical departure from American principles and practice. One New York newspaper, desiring to cast reflections upon Great Britain for adopting an old-age pension system, declared that "the mother of parliaments" had sunk to the level of this new western state. The Oklahoma constitution, however, has not surprised any one who has been following the tendencies of American state legislation for the last three decades; it is by no means "a leap in the dark" or "a shooting of Niagara." The American people are not given to sailing the ship of state by the stars or to deducing rules of law from abstract notions; and every important clause of the Oklahoma constitution has been tried out in the experience of one or more of the older commonwealths. The initiative and referendum came from Oregon and find warrant in the laws of several other states[1]; direct nomination is fast working a revolution in the American party system after a generation of tentative experiments built upon earlier voluntary methods[2]; the departures from old legal practices, even in such important matters as the injunction, find many precedents; the provisions regarding corporations are gathered from the constitutions and statutes of states as far apart as New York and Texas; and the labor provisions are not new to students of social economy.

CHARLES A. BEARD.

[1] POLITICAL SCIENCE QUARTERLY, vol. xxiii (December, 1908), pp. 577 *et seq.*

[2] Merriam, Primary Elections (1908).

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THE POLITICAL CAPACITY OF THE FRENCH

UNTIL very recently it would have been a somewhat sensational thing for one to say of the French that they were a reasonable people, with a settled government and a history worthy of emulation. There is a widespread impression that the French are a distinctly inferior race. The nation is said to be in decline. The people are said to be effeminate, trivial, excitable, unreasoning, irreligious, immoral when not unmoral, with an impure literature and art, an unstable and tottering government and a diminishing birth-rate. These charges are confirmed by many observers. Travelers returning from a summer abroad find little difficulty in producing orthodox impressions—and reminiscences. Estimable ladies or enterprising artists describe the "true Paris" or "France as it really is," basing their descriptions upon an experience of the Avenue de l'Opéra, the Bon Marché or the Latin Quarter. Anglo-Saxon Puritanism stands aghast at the realism of French literature. English and American caricature adds its degenerate Alphonses and Gastons, and editors make sport of French politics, speaking of it with that condescension which Lowell once found so irritating in the attitude of foreigners toward ourselves. And so we understand the French!

Nations, like individuals, have reputations, and they are for the most part in the keeping of their enemies or rivals. As there is an innate tendency in all of us to attribute evil motives to our opponents, few nations escape calumny. In the middle ages a heretic was always regarded as vicious and debased; so Tacitus regarded the Christians; so the uninformed regard all socialists today. Between nations this unreasoning animosity is kept alive by mutual ignorance and difference in manners and customs, and it is heightened by demagogues and the yellow press. Anyone at all familiar with Canada knows how absurd are its ideas of the United States: they are drawn largely from the habit of its own respectable journals of copy-

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ing the most sensational scandals of our lower press and presenting them to an unsuspecting public as samples of our ideals and morality. We have inherited a similar mistrust of France from English misconceptions, due to centuries of rivalry and of insularity. Then our German-trained professors have spread the influence of an Anglo-Teuton political science, deriving all the blessings of liberty and representative government from the Teutonic peoples and leaving to the French only a few reigns of terror and a tendency to despotisms.

Some French writers, as well, have contributed to this view by pessimistic comments upon their fellows. One finds such comments frequently in the writings of those who are in opposition to the government for the time being, or of partisan historians who find solace for the unwelcome triumph of democracy in the glorification of the past. Chateaubriand once said: "There is plenty of *esprit* in France, but reason and sound common sense are lacking; a couple of phrases intoxicate us." The German historian, Wilhelm Müller, copies this sentence in his *Political History of Recent Times*, adding: "It is certainly harder to rule such a nation than a nation of sober, sensible men." The sentence should of course be completed "like us Germans." Müller's history is highly recommended to our colleges by no less an authority than Andrew D. White. A "couple of phrases" can apparently intoxicate outside of France.

Leaving aside for the present the wider topic of national morality—a field so little understood and so slightly investigated, where prejudice reigns, consecrated by religion—let us examine this decrepit political structure, the French state. Here we are face to face with facts, and it is merely a matter of seeing. Yet even seeing is an art—when one wears a monocle. Voltaire once said that the foreigner could only see the façade of a nation. Certainly the foreigners have seen only the façade of the political system of France. Few have really concerned themselves with the interior structure, unless it is to point out that its plan does not fit the façade, which was an importation, largely of English make. The architectural lines of this inner political structure, with its interplay of thrust and counter-thrust, its nice adjustments, its use of native material cemented

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by common oppositions or welded together in the fires of national crises—these escape our attention. Judged by English standards the politics of modern France are in a bad way. During the nineteenth century there have been three republics, two kinds of royalty and two empires. The Third Republic spent ten years of uncertainty as to whether there was to be a republic or one of three kinds of monarchy. Since the republic has been under republicans, from 1879 to the present time, no less than thirty-six cabinets, with about 175 different cabinet ministers, have been cast up and dissolved like foam on the parliamentary waves. Surely such a nation is unable to govern itself. Its political architecture must be most insecure and likely to crash about one's ears at any moment.

Now, strangely enough, that was what Frenchmen in Voltaire's day thought of England. That land where, we have been taught to believe, "freedom slowly broadens down from precedent to precedent," whose institutions, copied the world over, are regarded as the product of a majestic, regular and inevitable process, seemed to French observers of the age of Louis XIV to be the home of civil discord, mob violence and dangerous radicalism. Voltaire himself shared the common belief in the variable temper of Englishmen. They are morose when the east wind blows; party feeling is stronger than common sense, and is less the expression of consistent political views than of class and clique prejudices. He asks his readers:

> Is it easy to define a nation which cut off the head of Charles I because he wanted to introduce the use of surplices in Scotland and exacted a tax which the judges declared belonged to him, while the same people saw without a murmur Cromwell chase out its parliaments, lords and bishops, and destroy all the laws? Imagine that James II was dethroned partly because he insisted on giving a place in a college to a Catholic pedant, and then recall that Henry VIII . . . changed the religion of the country because he wanted to marry a courtesan, whom he afterwards sent to the scaffold; that he wrote a bad book against Luther in favor of the pope, then made himself pope in England, hanging those who denied his supremacy and burning those who did not believe in transubstantiation—and all that gaily and with impunity! A spirit of enthusiasm, a furious superstition seized the whole

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nation during the civil wars; a mild and easy immorality succeeded this period of stress under the reign of Charles II.

That is how everything changes and seems to contradict itself. What is praised at one time is an error at another. The Spaniards say of a man: He was brave yesterday. That is about how one must judge nations—*and especially the English*. One ought to say: They were so and so such a year and such a month.[1]

This was not the view of Voltaire alone. As he says elsewhere, it was the common belief in France in his day that the government of England was stormier than the sea which surrounds it. The Marquis de Torcy, diplomatist and minister of France under Louis XIV, gives the same impression in his memoirs. We are apt to forget that until very recently the uncertainty of England's foreign policy kept alive in Parisian journals an epithet of dishonor—"perfidious Albion." In the light of these reminiscences it may not be amiss to inquire whether we have not confused the French political façade with the inner structure.

The nineteenth century was to France what the seventeenth was to England—a period of political re-adjustment. The political revolution which began in 1789 ended only in 1879, when the monarchist MacMahon resigned the presidency in the face of a Parliament that had slowly and steadily grown republican. One must understand the Revolution if one is to understand subsequent French history, and this has been possible only within the last few years. Carlyle, from whom most readers of English literature derive their impressions of it, misconceived it altogether. The gigantic tragedy which he so wonderfully depicts was not the main content of the Revolution. There were really two revolutions in one: a social revolution of the summer and autumn months of 1789, in which the whole social structure of France was overturned, and a political experiment, which has taken almost a century of adjustment. The social revolution, so long obscured by the dramatic occurrences which

[1] *Lettre à M···*, 1727. Over two centuries earlier Louis XI regarded England as the country of revolutions. He counted upon this uncertain character of English politics to check Edward IV by supporting Queen Margaret in England.

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followed, was the real event of 1789. The old régime with its inequalities, its oppression, its injustice, disappeared forever from France. But political reconstruction proved a long and difficult task. The first republic was forced upon the country by a band of enthusiasts; it is doubtful if the republicans ever had a majority throughout the country before 1877. In the long interval France gave up monarchy slowly and reluctantly, and various monarchic or aristocratic forms of government were tried. A second nominal republic was even established; but except for the opening months, February to June, 1848, when it was faced by the insistent demands of the laboring class, it was merely a continuation of the conservative Orleans monarchy, minus the king. Finally, after Sedan, all the possible forms of government were presented side by side to the nation for its choice. After seven years it finally chose the republic. Two years later every branch of the government was in republican hands. The long political revolution was over.

The history of the Third Republic therefore properly begins in the autumn of 1879. What of the stability of its government? During the last eighteen years there have been on an average no less than two premiers every year! To one looking merely at the façade, this seems an absolute condemnation of French political capacity. Has this long evolution produced only a sort of opera bouffe, in which the main interest centers in the entrances and exits? Each time a new premier has been announced, our editors have sharpened their pens and our political theorists have commented upon the pathetic spectacle of a nation that does not know its own mind. In reality a change of cabinets in France has not the significance it would have in England. It does not mean a reversal of policy. Generally it means more efficiency in carrying out the same policy. The new cabinet takes up the burden where the last one lays it down. Behind them all stands Parliament, absolute master of the whole situation, ready to dismiss the new ministers as soon as they show weakness or commit a blunder. The passing of French ministries is rather a sign of stable policy than of variability, as would be the case in England.

It seems to have escaped most critics that the only real test

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of a government is what it accomplishes. Critics of France have been so blinded by the Anglo-Teuton tradition that they seldom take the trouble to inquire what this nondescript governmental machine of France has been able to do. Now if one looks back over the history of the Third Republic since it has been under republicans, one will find a more logical development of reform, a more regular and consistent line of legislation, than can be matched where the English system prevails. One searches in vain for those headlong party measures which the next election nullifies. There is no senseless swinging of the pendulum from extreme conservatism to extreme radicalism. Variations occur, it is true, but not with chaotic abruptness. The choice is not between Gladstone, with home rule and anti-imperialism, and a Salisbury waiting to undo and mar all that Gladstone has done, nor between Republicanism and Democracy as these two parties have faced each other in the past in our political arena. It has not been a choice between opposite poles, but between more or less of the same thing. The extremists have always been excluded from power, since the Republic has been governed by republicans.

A glance at the product of the French Parliament since 1879 shows that France today, as well as England, is a land where "freedom slowly broadens down," if not from precedent to precedent, at least from statute to statute. To be sure freedom is a larger thing than acts of legislatures, but it is also larger than decisions of judges. Reforms of abuses which the state can prevent constitute merely those definite stages in the advance of freedom which the historian can register as indices of the nation's purpose. Yet here the work of the Parliament of the Third Republic will bear comparison with that complex and often hidden line of progress to be traced in England through law courts, local government and Parliament. A country which seems a paradise of anarchy when one reads of its shifting ministries exhibits upon examination a surprising degree of regularity, where year by year the scope of reforms is enlarged, the democratic bases of the republic are strengthened and its enemies in army or church suppressed. The roll of these laws fills too many pages to be repeated here.

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They are mainly directed toward the three chief problems of our day in Europe—militarism, clericalism and social reform. The first of these, drawing its life out the wrecked hopes of the monarchists and the unhushed memory of national disaster, fought savagely, but without honor, through Boulangism and the Dreyfus affair. It has at last been subdued by a law of which few out of France have so much as heard—the law which obliges rich men's sons to share the hardships and the dangers of the poor recruit; a measure which closed many a fashionable school and made the imperialist expansionist and the chauvinist aristocrat less ready to press for war with its attendant horrors. Clericalism was ousted from the common schools twenty years ago in a hard-fought battle. Now the first generation taught in those secularized schools has become an important part of the French electorate, and the interference of the clergy in politics has been ended by their emphatic renunciation of the concordat. The political rôle of the clergy is over; it has fought savagely, and not always honorably, to maintain its ancient prerogatives in a nation which had passed out of its tutelage. The struggle has been long and not always upon the surface; the breaking of the concordat is only one of its forms. But from the day when Gambetta unmasked the clericalism supporting MacMahon and his monarchists—"*le clericalisme, voilà l'ennemi*"—until Briand gently commiserated the church he had overthrown, the republicans never ceased in their warfare with its disciplined forces. Social reform has been less persistent. It has been sidetracked several times by the other questions. Yet it has no such era to record as that black and stagnant period when England was ruled by Balfour, relying on a majority won from a nation's agonized interest in the Boer War. Jules Ferry tried in vain to hush discontent by schemes of oriental empire. Clémenceau, then the eternal voice of rebuke, overturned ministry after ministry which was too weak to face the problems of social reform. Less bravely than when fighting army or clergy, but still continually attacking one or another social or economic evil, the Parliament of France has pushed ahead, growingly radical in temper, until even the conservatives upon its right would be accounted radical in our Congress.

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This output seems all the more remarkable when we recall that it has been accomplished by a Parliament almost lacking ministerial direction. Even for their relatively short terms of office the ministers are continually on trial. They are watched by Parliament with as keen an eye as were the generals of the reign of terror by the "deputies on mission." An interpellation is waiting for them in case of failure or weakness in office, and Parliament becomes at once a sort of political tribunal, passing sentence in its vote of confidence. This distrust of ministers is an ancient tradition in France. It dates from before the Revolution. The jealousy which foiled Mirabeau's plan for a constitutional monarchy with himself as prime minister rose again to mock Gambetta almost a hundred years later. It is not altogether unreasonable in a country so highly centralized. The minister of the interior, for instance, is like a general in command of a vast civil army. From the telegraph station at his office he can keep in touch from hour to hour with every prefect. They are his generals of divisions, posted in every department of France to carry out his will to the letter. How much more thoroughly he has the country in hand than even a Louis XIV, who had to wait weeks for an answer while couriers went riding over the miry roads with commands to his intendants! Nor are there any provincial estates to oppose his will today. The control of Louis XIV over France was not to be compared with that of Clémenceau. It is natural that Parliament should hold such a minister strictly to account and unlikely that it will ever lessen its jealous control.

As executive officers the cabinet ministers have enormous power. They are like a committee of sovereigns, presiding over the machinery of state—haunted forever, of course, by the shadow of an interpellation. They are the official heads of the vast civil and military hierarchy of the state. It is in this capacity that they appear most frequently before the public: at functions in the provincial towns, decorated with orders and the tri-color scarf, saluted by garrisons and acclaimed by functionaries. Parliament cannot take away these prerogatives of immediate executive control. Indeed it tends to strengthen and increase them. Nine-tenths of the laws of this country would

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be merely administrative ordinances in France. English laws and most of our own are so framed as to try and meet every contingency. We are however learning that, no matter how carefully a law is made, a lawyer and a judge can find their way through or around it. The French saw this long ago, and they make their laws hardly more than statements of general principles, leaving to the government the duty of carrying them out in the spirit in which they were passed. Thus Parliament throws the responsibility for the carrying-out of its intentions upon the ministers, to an extent undreamed of here or in England.

This is an efficient administrative machinery. The question at once arises, is it not too efficient? Personal freedom is endangered where the state can enforce the will of a majority too directly, and withhold redress of grievances from those who must give way before it. This is the point at which the most intelligent attack has been made upon the French system. The republicans have not always treated their opponents as fellow-citizens under the protection of a common law, but at times, especially in crises, as enemies of the state and therefore subject to outlawry. Police power, that general power of self-defense which all governments use in times of domestic danger, is employed in France in a way which would not be tolerated in England. It is invoked in the name of the state to get rid of unwelcome agitators, by exile or by imprisonment, and there have been cases which suggest memories of *lettres de cachet* and the Bastille. The republicans of the Third Republic still seem to feel that they are on the war footing with monarchists or militant socialists. The danger from the former is now so remote that it is doubtful if the future will see any more exiles bearing the pageant of their bleeding hearts at foreign chateaux. Such punishment is not without some compensations to a mere journalist. But the war with the socialists has just begun, and a sentence of five years in the prison of La Santé will not quench the ardor of the leaders of anti-militarism. What we are considering here, however, is not a question of policy, but the organized safeguards of personal liberty. Yet it seems impossible absolutely to separate the two; for the exercise of the police power must be conditioned by the need, *i. e.*, by the circum-

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stances under which it is applied. It is hard to say what would happen here or in England in case the state were really threatened so seriously as has been the case with France. There, by the propaganda of the anti-militarists, the defensive power was rendered nerveless—or, what amounts to the same thing, the people thought it was—at a time when German statecraft, backed by an army much more powerful than that which forced its way to Paris was brutally and openly thwarting French foreign policy. We have no Germany on our frontiers; yet, with no cause for general alarm, our police have been permitted to ride down those who gather to complain of the economic conditions which make political liberty a mockery. Moreover, when our state is seriously attacked, the war powers of our executive broaden out over the field of danger as effectively as in any land that has not heard of *habeas corpus*. Looking back over our own past, it is hard to say how safely our liberty would be guarded by our constitutional guarantees, if we were wedged like France into the map of Europe. Peace and the confidence that peace will be maintained are the indispensable conditions of personal liberty.

Moreover, apart from the question of personal liberty, the private rights of an individual, and especially his property rights, are most carefully and adequately protected by the French courts. Government officials may not encroach upon private property without granting compensation, as may be done in this country through the exercise of the police power, as that power is interpreted by the courts.[1]

But let us return to the Parliament. We have seen that it does not intrude into the field of administration, except to watch and investigate. But that powerful administrative head, the cabinet minister, has relatively little part in the making of law. Let him attempt to initiate legislation with the confident insistence of an English premier, and he will find that here he is face to face with his master. The measures he advocates are examined cautiously and critically, even when they are prepared to

[1] In this connection my attention has been called by Professor F. J. Goodnow to an article upon the law for the protection of public health in the *Revue générale de l'administration* for July, 1902.

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meet the demands of Parliament itself. In legislation Parliament remains supreme.

Now this is just where the critic adjusts his monocle. How can this unwieldy, intractable legislature avoid confusion in its law-making? With a cabinet in subjection and a president a mere figure-head, one might expect France to be the theater of such legislative disorder as characterized the unwieldy and undirected parliaments of the Revolution. In reality it has been saved from this largely by the same device which ultimately saved it in the reign of terror—by the use of committees. These are second in importance only to the ministry. Indeed they are often in a very real sense temporary cabinets, created for a single issue and using the ministers as their agents. Besides the important standing committees, which act as the official critics of the departments of state, a special committee is created for every large question that arises. Thus the law of separation was drawn up, not by a cabinet, but by a "commission" presided over by M. Buisson, the man who had so long presided over the secularization of French public schools, and with a comparatively unknown young Socialist, M. Aristide Briand, as reporter. The passing of cabinets seldom disturbs the work of these bodies. They formulate their laws with regular and methodical persistence, whether Combes or Rouvier or Clémenceau is premier; and measures of first importance are more often their work than the product of ministers as in England. The budget itself is sometimes taken out of the hands of the minister of finance and re-made by the budget committee —the minister still retaining his post.

The English cabinet is a simple expedient, suited only to a two-party system of government, and to a country where the law-courts have so long and so august a history as the guardians of liberty that their influence not seldom surpasses that of Parliament itself. In France, the intense centralization and wide scope of the administration would make an English premier little short of a dictator. He comes near enough to that position in England. France was not altogether misled, in spite of the lament of political theorists, when in the days of Mirabeau it viewed such an importation with suspicion.

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The French Parliament is a much more complicated machine than the English. It bears some external marks of English origin; but its method of work is as un-English as possible. In the first place there are no two great parties, government and "loyal opposition," facing each other across a carpeted aisle on long rows of deskless benches. The leader of the government does not look across a table into the face of a leader whose one rule of conduct is to oppose, and who accordingly opposes even good measures in order to postpone them until he himself may pass them. Instead of one disciplined party the French premier faces four or five, stretching over all shades of opinion from left to right. His cabinet rests upon a combination of two or three of these at least. How much more carefully he must trim his sails than if he were sure of a straight majority during the whole period of Parliament! Many a cabinet has gone down under full sail and in calm weather. Cabinet wrecking by interpellation has recently been less successful. Yet any member may call the ministry to account before the House upon any question at any time. The ministers practically must answer. An incident, an unhappy speech by a cabinet minister, a mistake in diplomacy or in handling a Paris mob, and the ministry is at once at the bar. There is no need to wait for a government measure to overthrow the discredited or unpopular cabinet. Over it goes at once. The vote is never certain on any measure. The parties group and re-group themselves as they deem wise. But through all this shifting, the committees of Parliament turn steadily the clogged wheels of legislation. The titular cabinets are then held responsible for the way the laws are carried out.

Such has been the rôle of the Parliament in the Third Republic. Its leaders have a genuine sense of the dynamic forces which make laws the agents of progress rather than the embodiment of old and time-worn ideals. It has been this forward look which has characterized the French since the opening of the eighteenth century, and in this they most fully represent the scientific spirit. If they are "intoxicated by a phrase" now, it is a phrase which impels to continual action, the inspiring sense of incompleteness which is not found in the doctrinaire.

JAMES THOMSON SHOTWELL.

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REVIEWS

The Origins of the British Colonial System, 1578–1660. By GEORGE LOUIS BEER. New York, The Macmillan Company, 1908. —438 pp.

In this and his preceding volume Mr. Beer has rendered an important service both to the history of the American colonies and to economic history. No student of this or any other period, whatever his predispositions, can fail to welcome a work which is so effective and so satisfying in its conclusions as this. It has of course always been known or felt that the commercial side of our colonial history was of great and fundamental importance; the sources abound in statements and references which relate to that side of things; the Acts of Trade were known to be a phenomenon of the greatest significance for the entire period; but preoccupation with the political and administrative history and lack of energy to undertake the labor which detailed research imposes has led until now to the neglect of this rich and perfectly accessible field. By collating all the references to colonization in America which are to be found in the writings of the Elizabethan and early Stuart periods—public acts and documents, statements put forth by the trading companies, the writings of all those who were interested in trade and discovery—Mr. Beer has been able to reconstruct the commercial policy of that early time and to trace the antecedents of the Acts of Trade. He has discovered a certain consensus of opinion, shown partly in words and partly in acts, which may properly be termed national and which takes the colonial movement from the first out of the category of merely isolated individual experiments. From the first the British nation as a whole pursued in this matter a consistent and well-balanced course of action, and by clearly showing what this was the author has thrown much light on what till now have been somewhat obscure aspects of early colonial history.

The keynote of Mr. Beer's work is struck in his preface. There he defines the term "colonial system" as he proposes to use it. "As employed in the work," he says, "it is synonymous with that complex system of regulations by means of which, though to a different extent, the economic structures of both metropolis and colony were moulded so as to conform to the prevailing ideal of a self-sufficing empire."

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The new feature of this generalization is to be found in its last clause—the "ideal of a self-sufficing empire." The purpose of the book is to show what was meant by this ideal and how far it was realized. At the beginning economic forces more nearly monopolized the field of activity than they did in later times. By fixing his attention upon them and by looking at events almost wholly from the imperialist point of view, Mr. Beer has been able to disentangle the main thread of events and to show that from the beginning of the Stuart period it was on the whole consistent with that which clearly appears after 1660. The fact that he has brought the island colonies within the scope of his discussion has contributed to this result. Eliminating motives which were more or less prominent but not fundamental, he has reached the conclusion that the really permanent and effective economic impulse toward colonization came from the desire of the British to find new sources of supply and thus to free themselves from commercial dependence on foreign nations. In the working-out of this principle the development of those colonies was preferred which, from the yield of fish or naval stores or tropical and semi-tropical products, tended to make England independent of the Dutch, the Baltic states, the Mediterranean and oriental countries, on which she had previously depended for such supplies. In order to secure the full supply of these products from the colonies for the English market, the policy of the staple was gradually evolved, and with it was combined the exclusion of foreigners and foreign ships from colonial trade. To this was added a system of drawbacks and duties, which were decidedly favorable to colonial merchants, and the suppression of any competing industry which might develop in England or Ireland. The colonies also enjoyed the protection of the British fleet, were the recipients of a variety of favors and were practically exempt from imperial taxation. It is the origin of these reciprocal relations, involving mutual advantage, which Mr. Beer so satisfactorily explains.

Tobacco was the earliest of the semi-tropical products to be produced in the British colonies on a large scale. In spite of the strong prejudice which existed against it, Virginia and a number of other colonies, both on the continent and among the islands, committed themselves so fully to it that it became an important source of revenue in England. Owing in part to the financial difficulties of the Stuart government, fiscal prevailed over moral considerations, and colonial tobacco became an important source of British revenue. At a later time sugar became an equally important product and largely absorbed the industry of the island colonies. But it was in connection with tobacco that the

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distinctive features of the mercantile system as applied to the colonies first appeared. All the manifold steps of policy which were taken in connection with the tobacco industry in Virginia are traced by Mr. Beer, and in connection with this much light is thrown on British fiscal policy as applied to colonial products.

It is in harmony with the author's point of view that, in discussing the internal economic development of the colonies, he should lay chief stress on the relation which the different groups bore to the needs of the empire and its commercial ideal. Newfoundland with its fisheries, the island colonies with their tropical products, the tobacco-producing colonies, all bore a complementary relation to Great Britain and were economically valuable members of the empire. But New England, except for its small yield of furs and until its production of naval stores began, sent little to English markets, though it bought freely of English goods. It stood rather as a potential competitor of the mother country than as a full participant in the commercial activities of the empire. The early growth of a lucrative trade between it and the islands gave New England a necessary outlet and enabled it to develop industries along natural lines. Mr. Beer concludes his treatment of the period before the opening of the Civil War in Great Britain with a chapter on the imperial administrative system. This is naturally the least original part of the book.

In the last two chapters the vicissitudes to which trade and imperial interests were subjected during the Civil War and the commonwealth are described. A sharp distinction is drawn between the first of these decades and the conditions which preceded and followed it. The political decentralization of the time was reflected in trade and in the economic sphere. Trade routes were dislocated and colonial traffic fell to a large extent into the hands of the Dutch. Foreign manufactures were shipped to the colonies, and their staple products were taken directly to European ports. The evidence for this is of course fragmentary, but, such as it is, it points in the direction indicated, and the conclusion is in harmony with the general probabilities of the case.

With the reorganization of the British executive under the Council of State came important changes. The colonies which adhered to the Stuarts were reduced to obedience. In Newfoundland, Maryland and the West Indies proprietary privileges were permanently or temporarily curtailed. Interest in trade and colonization revived, as is shown by the creation of manifold committees, both in Parliament and the Council of State, for affairs of this kind. The presence of the Dutch in New Netherland and the extent to which they had come to

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monopolize colonial trade and the fisheries, when this was realized, gave to Cromwell's colonial and foreign policy its decisive bent. It was directed against the commercial supremacy of the Dutch, and, as a condition of success in this enterprise, toward the promotion of British colonial interests and the strengthening of the British colonial administration in all possible ways. The views which Mr. Beer had earlier expressed on this matter he repeats in his last chapter, though with much additional proof derived from the purely colonial side of the subject. The way has thus been well prepared for the discussion of the period of the Restoration, when the principles of action which had begun to appear in the formative period were distinctly set forth in the Act of Trade and Navigation.

H. L. OSGOOD.

The Coming Struggle in Eastern Asia. By B. L. PUTNAM WEALE. London and New York, The Macmillan Company, 1908. —vii, 656 pp.

It is a sign of the growing interest in the affairs of the Far East that books like this can find publishers and, apparently, readers also, as it is the third with which Mr. Weale has favored the public within a few years. All three books pursue the same theme and in the same way. To Mr. Weale the one certain event is a conflict between Japan and the West or some part of it, and the greatest of errors is the treaty between Japan and Great Britain. That makes peace for the time, and Japan uses the breathing space in preparing for the greater struggle to come. This struggle has two sides: the one military, and the United States should prepare for that; the other commercial, and Great Britain, perhaps in conjunction with the United States, should enter upon that. Indeed, were the treaty out of the way, the combination should include both sides, for "the situation is already very critical and the great contest draws nearer and nearer. In this contest Japan will be the decisive factor along the vast far-eastern coast lines, unless there is a naval combination of all Anglo-Saxondom" (page 519).

To the author war is the natural state of man, and it is by no means undesirable. It is only men who are "ignorant of first principles" who can think of a parliament of the world (page 626). "It is international rivalry, culminating in death-dealing battles, which is the great motive power of the world. The sterilization begotten of a long peace is as much the nemesis of a nation as the vainglory of a Napoleon who threw himself into the other extreme." Hence we may expect a conflict at any moment, and the only rôle which the political student can

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assume is that of a Cassandra (page 625). We might ask why the student should assume a rôle at all, and not merely state things as they are; but this would not suit our author, who takes himself seriously. And yet he is conscious that he is playing a part, for at the beginning of his final chapter, from which we have just quoted, he tells us plainly that his volume "attempts to measure in a few hundred pages that which cannot properly be measured at all."

The book is divided into three unequal parts: "Russia beyond Lake Baikal"; "The New Problem of Eastern Asia"; "The Struggle Around China". Of these the first is the longest and the best. It is an excellent specimen of the work of the expert journalist, superficial, bright, observant and informing. The author, it is true, did not understand the language of the people (page 145), but that matters little, for his imagination can supply the deficiency and give at length conversations with chance strangers of all nationalities, who agree with him remarkably and confirm his conclusions. His other data are given in the same newspaper fashion: "it is understood," "there is reason to believe," "it is now an open secret," "the highest Japanese staff officers have reluctantly confessed this to me," "reinforced by unpublished and confidential data." It is apparent that Mr. Weale assumes the rôle of student as well as that of Cassandra, but through both his true vocation shows unmistakably.

With this understood the first part of the volume has value. It gives a somewhat vivid account of the situation in Vladivostok, the Ussuri region and Northern Manchuria. The greatness of the Russian possessions, the greatness of the Russian task and the greatness of the Russian blunder made when Siberia was neglected for the Manchurian and Korean adventure are apparent. Mr. Weale is at once critical and sympathetic; he can see the Russian faults and yet also their virtues. The only Russian of whom he disapproves is de Witte, for he made the unfortunate treaty of Portsmouth, which apparently alone prevented the Russians from triumphing over the Japanese (pages 310, 311). But when Mr. Weale passes into the Japanese lines his manner changes. After listening to "the new gossip of the road" about the Japanese, he remarks, "How they were cursed!" (page 297), and the exclamation expresses the author's thoughts. To do him justice he is, in a measure, aware of his prejudice: "There is and must be the same instinctive antipathy for the white-skinned man as the latter [to wit, Mr. Weale] on his part feels for his brown-skinned or yellow-skinned brethren!" This antipathy makes the latter part of the volume valuable only for its statistics, which are elsewhere readily available. Mr. Weale does not

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understand the Japanese, nor their history nor their institutions. Least of all does he know the spirit of the men who direct the destiny of the empire.

The reviewer can only express the wish that Mr. Weale may cease assuming rôles and confine himself to the work for which he is manifestly well equipped.

G. W. KNOX.

UNION THEOLOGICAL SEMINARY.

Américains et Japonais. By LOUIS AUBERT. Paris, Colin, 1908.—430 pp., with folding map.

The author of *Paix japonaise* has now contributed to the bibliography of contemporary politics the most exhaustive and authoritative discussion of Japanese-American relations that has yet been published. It deals, of course, with the "crisis"—as he plainly calls it, though Americans generally have refused to take the matter seriously—of the past two and a half years, as it has developed since the trouble over Japanese attending San Francisco's schools. Yet it is written with a historical background, having in view all the time the relations of Europe, America and Asia in the Pacific ocean even so far as three centuries back. The author has recently studied on the ground in both countries the questions that are involved and has made a most thorough survey of the contemporary discussions, particularly in the periodicals of the two countries. The seven chapter-headings give briefly an idea of the scope of the work: "Mastery of the Pacific"; "Japanese in Hawaii"; "Japanese in California (the standard of living); "Japanese in the United States" (the idea of assimilation); "Japanese in the Americas"; "United States and Japan" (covering also the Philippine phase); "United States, Japan and the Powers."

In spite of—or perhaps because of—M. Aubert's endeavor to avoid the appearance of partiality, the reader suspects that he has somewhat of a bias against Japan; but he holds himself, in the main, purely to exposition, though his side-comments here and there are invariably illuminating and reveal opinions partially or wholly formed in his own mind. The book gains by having a historical background, as already mentioned, though rather too much is made of the opening of Japanese relations with America through the Spaniards about 1600. M. Aubert sees things in the large, and it is the "race question" in which this book centers and which appears therein as the great question of the future, giving to this Japanese-American crisis—now happily disposed of for the time being—a world-wide interest.

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In this sense, it is not strange that a foreigner should give us a discussion of this subject which is far more careful and complete than anything available in our own literature; indeed, a foreigner could discuss the subject in its broader aspects better than either a Japanese or an American. But it is at least worth remarking that no such thorough survey of the facts and arguments of both sides—or of our own side alone—has appeared in the English language. It raises the question whether our threshing-out of contemporary problems in newspapers and magazines is by any means so satisfactory a method of enlightening the public as our editors complacently assume. There have been suggestions from various quarters of late that we should have to return to the old system of pamphleteering, in order to secure a discussion of public questions that should not be incomplete and superficial, as current magazine articles generally are. This book, to be sure, is considerably more than a pamphlet. Yet it is worth noting that, in paper covers, it is published in Paris at four francs, with a very good chart of the Pacific, its trade-routes *etc.* Perhaps if we could have cheap, unbound volumes of this sort, our discussion of current questions would gain, and increased circulation would stimulate both publicists and book-publishers to produce more meritorious treatises.

JAMES A. LEROY.

The Treaty Power Under the Constitution of the United States. By ROBERT T. DEVLIN. San Francisco, Bancroft-Whitney Company, 1908.—lxx, 864 pp.

The author of *The Treaty Power* has been known heretofore through his treatise on *Deeds*, and the work under review is compiled in the fashion commonly followed by American writers on private-law topics. It is made up of a large number of opinions gathered from decisions of the courts, from the records of the executive departments and of Congress and from the writings of unofficial authorities. The author has been thorough in his canvass of the material relating to the subject and the assortment and grouping of it is sufficiently systematic; but he has neglected, for the most part, to indicate the relative weight of the opinions which he cites, or to distinguish settled doctrine from mere opinion.

The first seven chapters deal with the historical development of the treaty power, the prohibition laid upon the states to enter into treaties, the making, taking effect and termination of treaties and the enforcement of treaty-rights by individuals. These chapters may be regarded as introductory to the next three (pages 109–306), which constitute

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the most important and interesting part of the work, as they deal with the extent of the treaty power, especially when in conflict with the acts of Congress or with the constitutions and statutes of the states. Upon this subject the book is particularly full in citation and the authorities are brought down to date. As this subject is one of especial interest at the present time in the author's own state, where action alleged to be in derogation of treaty rights has been taken in some instances and proposed in others, it may be assumed that the preparation of this volume was suggested by pending controversies. The author does not attempt, however, to present any argument of his own. He has, it seems, reached the conclusion "that the United States is a sovereign nation, fully capable, where not restrained by the limitations of the constitution, of exercising all the powers that attach to sovereignty" (preface). But this does not help us to decide the questions now in debate. The state-rights view, so clearly enunciated by Senator Rayner (whose speech is quoted in full from the *Congressional Record* on pages 145–170), is that the treaty power lies in grant alone and not in sovereignty, that it must be construed as *in pari materia* with all the other delegated powers of the federal government, and that it is subject to the same limitations. The author nowhere seeks to answer the arguments advanced by Senator Rayner, although some brief sections devoted to "Comments" (*e. g.* on page 140) indicate that he is a liberal constructionist and that he views the treaty power as in a measure incidental to the war power. On the other hand, he is much in line with another recent writer upon the subject, Mr. Butler, in that he does not declare the power to be unlimited, but contents himself with saying: "What the limits are, no one can correctly state" (page 141). It was precisely this uncertain attitude on the part of Senator Rayner's antagonists which gave him, during the debate in the Senate, the advantage which always attaches to a definite position. It seems to the reviewer that Mr. Devlin has lost a desirable opportunity to state clearly the position of the school of liberal constructionists. The cases cited in the present volume, even some of those relied on by Senator Rayner himself, indicate that the federal government has all of the treaty power which the several states would possess, had they not expressly delegated it. This power is coextensive with that exercised by the British crown at the time of the Revolution, under limitations which were political rather than constitutional. Mr. Root came nearest to the correct view when he maintained that, as to every real (not colorable) exercise of the treaty power, "the constitution itself, in the most explicit terms, has precluded the existence of any such [state-rights] question."

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The book includes other topics which are not usually dealt with in connection with the treaty power, such as extradition and procedure thereon, ambassadors, consuls, consular courts and foreign judgments, naturalization and expatriation and claims against governments (pages 338–403, 420–590). On these topics also the author has brought together much material. Among the authorities cited are manuscript documents on file at the State Department. All the extracts from these documents which the author gives us are to be found in Professor John Bassett Moore's *Digest of International Law;* and as the documents themselves are not generally accessible, it would have been preferable to refer to the pages of the *Digest.*

ARTHUR K. KUHN.

NEW YORK.

Races and Immigrants in America. By JOHN R. COMMONS. New York, The Macmillan Company, 1907.—xiii, 242 pp.

The writer who attempts to present a deep and complicated subject in brief and popular form encounters difficulties not easily surmounted or avoided. It is to be feared that the general reader, for whom Professor Commons's book is intended, will be somewhat dazed by the rapidity with which economic doctrines, sociological theories and historical interpretations are made to flit across his view, while the specialist in any of the lines along which the author's argument hurries will feel a not unnatural irritation at the summary treatment given to vexed questions. Take, for example, the question of race, which Professor Commons makes the very basis of his book. After an admirable definition of the problem—to "find factors of heredity and race" as distinct from "those of heredity and environment," he abandons its solution with the cheerful statement that he will "use the word 'race' in rather a loose and elastic sense." He then adopts, without criticism, a stereotyped race classification which ethnologists have battered to pieces.

On reading further, however, it becomes plain that the race distinction is of consequence in Professor Commons's scheme of thought only as it is the basis of a division of the social whole into "stronger" and "weaker" groups. Where such distinctions are too great, he thinks that the fulfilment of the ideal of democracy is impeded. The weaker group is not only unfit to partake on equal terms in the opportunities offered in a democracy, but is a means of hindrance to the stronger groups by its influence in lowering the general standard of living, especially through economic competition. Accordingly, what he

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is really trying to do is to set before us the obviously differing groups as they have appeared in our history, without close analysis of the basis of difference, and to enquire somewhat into the influence and probable permanence of these different group characters. We have, then, successive chapters on the colonial elements, the negro, nineteenth-century additions of white Europeans, and a brief account of all these groups in their relation to industry and labor, to city life, poverty and crime, and to amalgamation and assimilation.

Notwithstanding the emphasis laid on the fundamental importance and permanence of the race distinction, the facts presented in the book and the conclusions of the author are in the main hopeful. In respect to European white immigration, instance after instance is given of exceedingly rapid effacement of the original group lines of difference, especially through the work of trades unions, which have repeatedly shown their power to unite new arrivals of different nationalities on a basis of common class interest.

The case of the negro obviously offers deeper difficulties, based, in Professor Commons's opinion, upon a fundamental inferiority of race. Yet even in this case he presents much evidence that the influence of environment tends to overrule that of race. The original race character of the negro, for instance, he ascribes largely to climate, and his present "race" character largely to a process of social selection through the institution of slavery, carried on through the brief period of a hundred and fifty years.

The broader aspect of the race question is taken up in the final chapter on amalgamation and assimilation, which follows the line opened up by President Walker over thirty years ago, ascribing to the incoming of low-standard foreigners a progressive decrease in the birth-rate of the native stock, which, if persisted in, will end in its submergence by the foreign stock. This is pictured as the result of competition between stronger and weaker groups. The reviewer has never been able to understand why those who follow this line of argument always assume that this process would not have gone on had the American community remained exclusively of colonial stock. Considering the restless activity of the colonists, their love for all manner of experiment and adventure, their instinct for "getting ahead," which led them, in order to carry out their extensive plans of dominion, to call in this very horde of weaker elements whose presence is so deplored, is it to be thought for a moment that, left to themselves, with no access to foreigners, they would have proceeded soberly along the carefully equilibrated course of industrial and social progress marked

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out for them by Professor Commons and his school? To the reviewer, this seems highly improbable. Stronger and weaker elements would have developed within the native population itself; the stronger would have shown the declining birthrate that accompanies increasing prosperity in most populations, even when of homogeneous racial stock; the weaker would have followed the usual course of weaker groups in economic competition, with a higher birthrate accompanying a lower standard of living; sharply defined economic and social classes would have emerged—and the alarm would still have been sounded that the better part of the community was dying out. This has been the course of events in countries without immigration; why should it have been otherwise here? Is it not time, then, that in our discussions on immigration we should cease to contrast the present condition of things in this country with the primitive "native" simplicity of the thirteen colonies, or with an ideal democracy imagined as the logical outcome of colonial principles?

KATE HOLLADAY CLAGHORN.

BROOKLYN, N. Y.

The Family. By HELEN BOSANQUET. London, Macmillan and Company, 1906.—vii, 344 pp.

In the preface to this book the author states that she designs to bring together materials for an estimate of the family as a social institution, and to this end to set forth its history, leading theories upon it and its relation to contemporaneous society. Part I, on "The Family History," contains chapters on the patriarchal and the "pre-historic" family, the family in relation to industry and property and to the state at large, on the family in England and on younger brothers. Part II, on "The Modern Family," contains chapters on the basis and economic function, the psychology and constituent parts of the family (*i. e.*, father, mother, child) and on "The Name and the House."

In her fragmentary presentation of the history of the family, the author is greatly handicapped by getting facts at second hand. A little familiarity with ethnography would have shown her that, as highly developed forms of ancestor worship exist independently of the patriarchate, the *patria potestas* is not so easily explained by ancestor worship (pages 16, 61); that ancestor worship is never the sole religious cult of a community (page 19); that since the work of Spencer and Gillen, with which she is evidently unacquainted, Australian group-marriage theories are not to be flippantly dismissed (page 29); that without dis-

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cussing the division of labor between the sexes and the status of the slave among primitive peoples it is most misleading to state baldly that the primitive position of woman approximates slavery (page 33); that in view of the frequently reciprocal nature of divorce and of the many ways in which the primitive mother controls her children, primitive marital mastery is *not* permanent and absolute (page 260); that at the "lowest level" the wife's "best or only chance of considerate treatment from her husband" does *not* lie in having powerful relations, for in the most primitive societies there are no "powerful relations" (page 35); that the father can not be said to be always the responsible protector and support of the family unless the rôle of the mother's brother or clan is wholly overlooked (page 39); that the give-and-get commercialism of ancestor worship precludes its description as a religion "as far removed from any merely economic consideration as Christianity itself" (page 46)—unless one should argue that the Christian heaven with its promise of future utility is an economic consideration. The discussion of the family in relation to industry and property and to the state consists mainly of extracts or summaries from Grosse, Le Play, Stepnick, Brentano, Froude *etc.*

Given a faulty and inadequate ethnographic review and an uncritical compilation of historical paragraphs as an introduction, we can hardly be surprised by the character of the analysis that follows.

Like many another moralist, the author holds a brief for the perpetuation of a certain family type. Her study of the past has been too scant or superficial for her sincerely to realize that the family moves with its society—even if it does lag behind. As a self-confessed individualist, anxious to read some self-sufficient spiritualizing force into the family, even though she does not insist directly on a divine sanction, she nevertheless refuses to recognize interplay between the family and other social groups. Having entirely overlooked the primitive community's control of its young people, its boy and girl club-houses, its initiation ceremonies *etc.*, she also shirks any serious consideration of such modern problems as the relation of the family to the school, the playground, the church and the settlement. Again, although she appears frequently to realize the influence of economic conditions upon the family, she is loath to admit that where these conditions have made the family inefficient, other agents must step in to protect the individual and to supplement family activities. Instead of attempting to draw boundary lines for state and family responsibilities, she toys with sentimental complaints of the encroachment of the school upon the family, or dismisses the subject with a sounding sentence.

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And if it should ever come to pass that men and women will be content to abandon their children to the community merely for the sake of their own greater ease, it will mean such a breaking up of the whole moral nature of the race that not the Family alone, but the State itself will be shattered in its foundations [page 40].

Failure to appreciate economic changes has also led the author again and again to confuse housekeeping with home-making.

Although that very ancestor cult to which she has ascribed so much influence in the family often prescribes polygyny, Miss Bosanquet writes in the first half of her book that "throughout all changes one husband and one wife has been the constant type, all other forms mere aberrations, and the process of development has been always towards a more deliberately conscious and therefore higher form of monogamy" (page 39). This pretty generalization does not encourage us to expect anything more than an *a priori* discussion of the duration of modern marriage. We are rather startled, however, not to find in the second half of the book a single direct reference of any kind to divorce. Nor do we find any thing more relevant on the birth-rate—that other great problem of the modern family—or on the many perplexing questions which affect the birth-rate, than the following sentiment, pocketed in a discussion on ancestor worship. "Even celibacy, if not altogether condoned, would now be deplored less for the sake of the dead than for the sake of the unborn, either the coming generation who must lack the comrades they should have had, or the souls which are denied existence in mortal life" (page 21). References to the degenerate, unstable type of family are made, and Miss Bosanquet has found the classification of inefficient families as departures from a true type—a very convenient method of ignoring many current social problems and of keeping unscathed her faith in what is left to us of the proprietary type of family, with its recognition of a supreme paternal authority, its subordination of women, its covert desire for a secluded and economically inefficient womanhood, its taboo upon discussion of extra-matrimonial sex relations and its refusal in general to be questioned.

Miss Bosanquet never really questions the proprietary family, but she has moments when she is on the verge of it. She suggests, for example, and with seeming approval, that modern sons and daughters may sometimes escape from family absolutism to better their worldly status or to become economically efficient. True to her preconceptions, however, she insists that this very spirit of enterprise is due to the family (page 227). Again she speaks in glowing terms of marriage as the "noblest harmony of life when two disciplined and independent

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wills combine" (page 282), forgetting perhaps that she has already referred to the father as "the originator, the organizer, the support, the author of the family" (page 267), and has complacently discussed the idea that although wifely "disobedience might be considered as reprehensible as ever, . . . a large share of the blame would be reserved for the husband who should make conformity to his will a frequent problem" (page 268). The mother is recommended to take "an active part or intelligent interest in the wide life of the community." Yet it appears acceptable to Miss Bosanquet that "in the absence of any strong reason to the contrary, it is the father who determines what the religion of the family will be" (pages 261, 262); and that it is the father who "acts for the family, stands for the family, gives his name to the family and is the legal and authorized representative of the family" (pages 269–271). Of course, although it is the father who determines "the basis of the family life and the main outlines of its movements, the scale upon which the household is to be organized, the kind of education the children are to receive, the place in which the family is to reside and so on," his authority "should not extend to details." He is "a court of appeal to be called in as a last resource, and as such the mere fact of his existence is invaluable to the housewife by strengthening her hands in the management of children and servants" (page 273). Miss Bosanquet very liberally suggests that it is "beside the mark to insist either that women shall do no work, or that their work shall be different in kind from that of the men" (pages 291, 296). Nevertheless as "a large part of the woman's activities are directed towards domestic cares", her mental energies being dissipated over the thousand little details which are necessary to the successful management of a family, "she is inevitably debarred from acquiring facility in matters of business intercourse" (pages 272, 273).

These instances of failure to think conditions through and many others like them in the book are worth noting, because in them, to the reviewer's mind, consists its interest. Its very shortcomings make of it a sociological document, an expression of the cross currents of public opinion on the vexed problems of the present-day family.

The Family has no bibliography and no index. The bibliographical references are in many cases incomplete. They are sometimes given in the body of the text and sometimes as footnotes. There is a like lack of uniformity in the matter of translating quotations: usually they are translated, but some are given in the original.

ELSIE CLEWS PARSONS.

NEW YORK CITY.

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Primitive Secret Societies. By HUTTON WEBSTER. New York, The Macmillan Company, 1908.—xiii, 227 pp.

In the present stage of ethnological research a general work on primitive secret societies dealing, as it practically must, with almost every phase of primitive life, is naturally looked upon askance by the student of ethnological details. To present a systematic statement of the data accumulated in the last two decades is both a commendable and necessary task; but even a provisional attempt to interpret the meaning and the psychological causes underlying the most important sides of primitive culture, at a time when our knowledge of even the best known societies is imperfect and when whole continents like Africa and South America are still known only in their barest outlines, seems to me not only premature, but calculated only to encourage the wild generalizations of which ethnology has already had more than its due share. Secret societies, however, present so great an interest in themselves and in the possible bearings they have on societies among the historic nations of the east and west, that from the standpoint of a sociologist, one might plead extenuating circumstances for the work under review.

Professor Webster states in his preface that, "starting with no preconceived notions of the subject, he has endeavored to shape his theories in accordance with his facts and in many instances by abstaining from generalizations to let his facts carry their own significance to the reader's mind."

Let us examine to what extent this resolve has been carried out.

The book is divided into eleven chapters. The last one, in the nature of an appendix, deals with the diffusion of initiation ceremonies and is by far the most satisfactory chapter in the book. Starting from the fact, more or less attested, that there is a distinct separation of the sexes into two well marked divisions, we enter into a discussion of that institution which the author considers to be one of the strongest elements for the perpetuation of sexual separation—the men's house. The men's house, according to Webster, is any building used as a council-chamber, town-hall, guest room, bachelor's house or for puberty ceremonies *etc.*, and is distinguished from other houses by the fact that children, women or uninitiated members of the tribe cannot enter it. From this exclusion of uninitiated people is postulated the corollary that "it serves as an effectual restraint upon the sexual proclivities." "In rare instances," the author goes on to say, "these institutions seem to have facilitated sexual communism rather than sexual

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separation." I believe that Professor Webster is wrong in thinking that such instances are rare, for, despite the paucity of our present materials, examples can be found among the Masai, the Bororos of Brazil, the Igorots of the Philippines and certain other tribes.

In spite of the author's assurance that he has started with no preconceived notion, we meet with a broad generalization on the very first page, where we are informed that "in a rude state of culture the male members of a tribe are divided into the initiated and uninitiated, in other words a man is not a member of his tribe until he has gone through certain rites of initiation," which are identical or intimately associated with puberty initiation ceremonies. From this "rude state of culture" develop more and more complicated stages, but as there is never a clear-cut division between the stages, vestiges of one grade are found in the succeeding grade. Here we have the old favorite gradation theory, again recently advanced by Professor Breysig in his *Völker des Nordens*. The theory in this instance is based presumably upon cultural conditions found in Australia and parts of the South Seas. Although our Australian data are infinitely richer than those of any other region, with the exception of North America, Professor Webster finds no hesitation in applying conclusions there obtained over all cultural areas. Obstacles are explained away by calling attention to vestiges of particular stages. The author informs us that if there is a variation from this primal division into initiated and uninitiated, or if there is an absence of puberty rites, or a substitution of secret-society puberty institutions for those of the tribe *etc.*, all these constitute merely irregular steps in a progressive evolution. The identification of a stage of culture is as simple as in the days of Morgan; given such and such an institution and you can tell what stage it represents and what its necessary attributes are or ought to be. If you can find no trace of puberty rites among the plains or woodland tribes of North America, you have in their place the initiation rites of the secret societies; the secret societies have replaced the tribal puberty institutions; the clan has replaced the tribal organization and the clan organization has become partially disintegrated to permit the formation of societies where clan membership is no longer a prime requisite of entrance. This bald way of stating Professor Webster's position may seem unjust, but there is warrant for it on every page of his book.

The next subject treated is the puberty institution, which to the author is originally identical with the official entrance into the tribe. As he takes almost all his examples from Australia and Melanesia one can easily understand his division of all male communities into four

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rude classes — boys before puberty, unmarried youths, mature men and old men. Here again Professor Webster has generalized in an absolutely unwarranted manner, and he has invested phenomena with a definiteness wholly imaginary outside of a few limited areas. So definite, according to the author, is the passage from one stage to another, that he speaks of puberty ceremonies "serving to complete the transfer of the child from mother-right to father- and tribal-right." For rites connected with the passage to the higher stages, evidence is adduced from the secret societies like the Duk Duk of the Bismarck Archipelago and the various North American societies.

In this jump from initiation rites of the tribe to those of the secret societies we come to one of the fundamental defects of the work before us—a confusion between tribal and society ceremonials. If examples of gradations are not found in tribal rites, not the least hesitancy is shown in drawing them from the society. Difficulties seem to be surmounted by the theory that "secret societies replace earlier puberty rites." The fact that it is only in these secret societies that illustrations can be found of any definite ceremonials incidental to the passing from one of the higher stages to the other seems likewise to present no difficulty. Why, if four classes were at all characteristic of any primitive group, ceremonies connected with the three higher grades should be absent, although they appear afterwards in later institutions, is not explained; nor does it seem to have occurred to the author that such divisions may have developed in the society itself.

Chapters iii, iv and v deal with the secret rites connected with puberty, the training of the novice and the power of the elders, and many minor theoretical points are made which space unfortunately forbids us to discuss. It is in chapters vi and vii, dealing with the development and functions of social societies, that Professor Webster's theory is most clearly presented. He says:

> The initiation ceremonies discussed have certain clearly marked characteristics. They are all tribal. They are secret, and jealously guarded from the eyes of the uninitiated. They are communal, organized and conducted by the elders, who are the responsible guardians of the state . . . . When, under the influence of various conditions there develops in every progressive community a definite centralization of authority, the shifting of social control from the elders to the tribal chiefs renders unnecessary the entire machinery of tribal initiation. For obedience to the tribe is substituted obedience to the chief. Initiation ceremonies retain their tribal aspects only in societies which have not yet emerged from the primitive stage in which all social control is in the hands of the elders . . . . The presence of such

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ceremonies throughout Australia and New Guinea is to be associated with the absence of definite and permanent chieftainships in the islands. In Melanesia and Africa political centralization has resulted to a large degree in the establishment of chieftainships. But this process has not continued so far as to make possible the entire surrender to the tribal chiefs of those functions of social control which in the earlier stages of society rest with the elders alone . . . . In communities where the political powers of the chiefs are as yet in a formative stage, the secret societies provide effective social restraints and supplement the governmental activity of the earliest rulers. With developing political centralization, such functions tend to become obsolete, and the religious and dramatic aspects of the societies assume the most important place. This last stage is reached both in Polynesia and North America, where we find aristocratic conditions in process of formation and powerful chieftainships already established. Under these conditions tribal secret societies have developed into fraternities of priests or shamans, who are intrusted with the performance of the religious rites of the community.

One more point and Professor Webster's theory is complete. The resemblance, which he finds between the secret organizations of widely separated peoples, he traces to the fact, that "they everywhere exhibit the characteristics of the original clan organization which underlies them." Does Professor Webster mean that a clan organization, in the common acceptance of that term, is to be found wherever secret societies are present?

His theory is thus complete. It is a provisional theory, and yet it attempts to explain one of the most intricate elements of primitive culture. It would be useless to criticise all the positions advanced, although that could be done. Any number of illustrations could be brought forward in support of such criticism. But the validity of theories does not depend upon illustrations such as Webster, following Spencer, Tylor, Morgan and recently Breysig, has employed, because the different interpretations put upon them divests them of all probative force. And not until we have all realized that only when an illustration in its manifold relations to its individual, historical and psychological setting, really shows an undeniable resemblance to the phenomena to be illustrated, will the exemplification of theories by "facts" or "illustrations" be fruitful of results. Throughout his work, Professor Webster has not regarded any such strict definition of a "fact" or "illustration." This has led to his artificial separation of "cultural" phenomena from everything that gave them their distinct and individual significance. This is to me the glaring fault of the whole work, and has given to it that unfortunate characteristic of "distinctness," fatal

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to all theories when examined in detail. That there is a resemblance between the cultural achievements of people the world over it might be hazardous to deny, but any evidence for a cultural unity of man can be obtained only by a reversal of just that method of investigation which the work under review exemplifies.

A few minor points might be mentioned. No attempt has been made to use any of the authorities critically; the evidence of the trained scholar, the missionary and the traveler receive the same amount of credence. Certain data have either been omitted or inadequately used, as the Californian, Canadian, Athabascan, the Mexican, Central American, Peruvian, South American and Siberian. Dr. Koch's work on the animism of the South American Indians, and some other valuable papers are not even mentioned. The English and American authorities have been thoroughly used, but, on the whole, the same cannot be said of the German or of the Spanish data.

PAUL RADIN.

NEW YORK CITY.

The Humanity, Benevolence and Charity Legislation of the Pentateuch and the Talmud. By MAURICE FLUEGEL. Baltimore, 1908.—306 pp.

The purpose of Mr. Fluegel's rather bulky work is to prove the originality of the Mosaic laws and their superiority, social and economic, over those of the Hammurabi code. Certain scholars, among whom is Professor Delitzsch, have dared to intrude into the long-hallowed lore of the Old Testament, turning upon it the searchlight of history, of science and especially of the newly found Hammurabi code, and, as a result, have pronounced the Pentateuch a sheer plagiarism. Mr. Fluegel has seized the opportunity to rehabilitate the Thora. He has examined both the Hammurabi and the Hebrew legislation and finds the claims of the critics to be utter nonsense.

The book would be more convincing if it were less declamatory, and if the author had not attempted to strengthen his position by blaming and accusing those who think differently. Whatever may have been the personal motives of Professor Delitzsch, his views were promulgated in the name of science, and they should be criticized dispassionately. Invectives and repeated accusations of anti-Semitism are no arguments. The book suffers, also, from prolixity. Not only do we find the same ideas recurring, but the same quotations, refutations, and eulogies are constantly repeated in unchanged wording, until, in spite of its impassioned style, the book becomes tedious.

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Until almost the end of the volume, when the facts are recalled to him by Professor Sayce, this zealous defender of Moses forgets to mention that the Bible was not the work of one individual nor the product of a single period; and in numerous passages (pages 40, 70, 74, 192 and elsewhere) he confuses with the so-called Mosaic laws not only the sayings of the prophets but also those of the Talmud.

In spite of these and other defects, those portions of the book which treat of the purely economic teachings of the Hebrews are of value and will be found useful to the student of economics. The author has collected, elucidated and contrasted in a more or less coherent and interesting way the economic theories of the ancients. Even those who are familiar with the Mosaic teachings will find their systematic presentation instructive. The doctrines of the release and of the jubilee, of property and usury, of slavery and poor laws, of workingmen's hire and the mode of payment of wages, are set before us in the light of the spirit which made them binding. But while Mr. Fluegel has succeeded in showing the originality and purity of these doctrines, by contrasting them with the Hammurabi code and the Roman Twelve Tables, his method is often deplorably unscientific. The reader gets an impression of a book written in haste, to order and piece-meal, and there are errors which cannot be explained by carelessness alone. Thus, in speaking of the Biblical "Humanity Laws" (page 33), the author quotes the Biblical text: "That there may be no *pauper* among you, for the *poor man* will not be missing in the land"; and he exclaims, "No illusions! Poor ones there will ever be in human society . . . but look out that the poor shall become no pauper." In the original the word "*ebion*" is used in both parts of the quoted sentence, and it is difficult to understand why Mr. Fluegel translates the word "pauper" in the first clause and "poor man" in the second. Again: he praises the Jewish empire as free from inequality; it knew, according to him, no social problem, since wealth and power remained fairly balanced (page 47). It is not necessary to have recourse to other historical sources to disprove this unwarranted and arbitrary statement; the Bible itself, and particularly the vigorous protests of Isaiah and Jeremiah, establish Mr. Fluegel's error. If the social problem in Judea was not so intense and as bitter as in Babylonia, it was due not to the Mosaic law but rather to the fact that Judea was an agricultural country, where wealth could not be amassed in such measure as in the ancient prototype of the United States—the heterogeneously populated and commercial Babylonia.

Mr. Fluegel, of course, does not pretend to be an economist; but he

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touches upon many economic questions, and his remarks do not by any means add to the value of the book. Thus he identifies modern socialism with the utopian aspirations of St. Simon, Fourier and Owen; he alludes to the *laissez faire* theory as the "modern economic principle" (page 35); his panacea for present evils consists in securing to every man an inalienable family acre (page 45); and he thinks that our Civil War was caused by the insistance of the South that the North should act as its "slave catcher."

FRANK F. ROSENBLATT.

COLUMBIA UNIVERSITY.

The Confessions of a Railroad Signalman. By J. O. FAGAN. Boston, Houghton Mifflin Company, 1908.—181 pp.

The author of this little book speaks with an authority that many years of practical railroad service would naturally bestow, and his aim is to analyze the real causes that lie behind the appalling casualties which each year mark our American railroad history. For the most part he lays the blame on the men engaged in the railroad service. He criticises to some extent the attitude of the management and the system of discipline in vogue on most of our railroads, but much more forceful is his charge that, as a class, the railroad men of to-day care only about their wages and other conditions of employment and that their sense of loyalty to their employers and to the traveling public has been allowed to remain undeveloped. In this connection he finds fault with the organizations of the railway employees, blaming the leaders for fostering a spirit of narrow selfishness at the expense of sound discipline and without in the least endeavoring to inspire within the men a feeling of social duty—a feeling without which no system of rules, signals or safety devices will be of much avail. Improvement in American railway transportation from the point of view of safety is thus, according to the author, brought to a standstill.

The way out of this seeming *impasse* is to be found, he thinks, only in the exercise of a real public control. Not much can be expected from the management because, between what he calls "the rival interests of harmony and efficiency," the management, following the path of least resistance, has already decided in favor of "harmony." The men actually in conduct of the business must thus be made from without to feel the responsibility that is really theirs. The author does not doubt that when once an appreciation of this necessity is brought home to the public adequate means of meeting it will be found.

Almost all that Mr. Fagan sets forth in this book—and certainly the

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remedy that he suggests—the unbiassed reader will be forced to accept; and yet a candid consideration of the argument leads the reviewer, at least, to feel that the author himself is not totally unprejudiced. He has allowed his mind to become too much occupied with a single idea, and he seems to make no allowance for the limitations that have in most cases surrounded the lives of the men from the day they were born. The railway employees are not the only class in the community which lacks a high sense of social responsibility; and despite the fact that the author shows that the management has in most cases adopted stringent rules to be observed by others, yet it could be shown that time and again, when financial outlays have been required to insure a greater degree of safety to the public at large, these outlays have been delayed until public indignation or legal enactment has compelled them. Of course, this is simply a further argument in support of Mr. Fagan's contention that improvement can be expected only when it is imposed from without.

The book is well thought out. The English is excellent and the style calm and clear. It is of interest to everybody.

EUGENE E. AGGER.

COLUMBIA UNIVERSITY.

The Investments of Life Insurance Companies. By LESTER W. ZARTMAN. New York, Henry Holt and Company, 1906.—v, 259 pp.

Dr. Zartman's book has more virtues than that of mere timeliness. It is one of the increasing number of studies of actual business conditions that are bringing concreteness and vitality to American economic literature. Yet Dr. Zartman holds steadfastly to the point of view of the economist—the public interest is kept consistently in the foreground. State insurance reports and insurance periodicals (which seem to have been used discriminatingly) have furnished the greater part of the material.

The author is thoroughly convinced that improvement in the character and management of insurance company assets will be best achieved through the removal of legislative restriction of the field of investment, coupled with the development of the active interest of policy-holders in the affairs of their companies. The net result will be, he thinks, to focus responsibility upon officers, directors and trustees. Certain laws, such as the Texas statute intended to prevent insurance company officials from getting private profits through the handling of the funds committed to their charge, and the Massachusetts statute regulating the proxy system, are endorsed. The reviewer, however, is

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not altogether convinced that we can afford to do without some general state supervision of insurance company investments, although it is doubtless true that a larger measure of administrative discretion in such matters should be given to state insurance departments than legislatures, up to the present, have been willing to concede.

Most of the blemishes on what is in general a thoroughly admirable piece of work consist of mere infelicities of phrase or diction. In one important particular, however, Dr. Zartman seems to the reviewer to have erred, and that is in the inclusion of annual "investment fluctuations" with annual investment earnings. There are important differences between such things as realized income and accrued interest on the one hand, and mere imputed, hypothetical changes in security values on the other. Nor does the author's method justify itself by its results, for his tables of actual earning rates (pages 74, 76) are needlessly irregular and confusing.

ALLYN A. YOUNG.

STANFORD UNIVERSITY.

A Neglected Point in Connection with Crises. By N. JOHANNSEN. New York, The Bankers' Publishing Company, 1908.—viii, 194 pp.

The "neglected point" is that crises, and especially depressions, are due to "impair savings." The explanation is very simple. In a crisis, a great number of persons are obliged to realize on goods and chattels and even on businesses which are bought at a bargain by those more lucky and solvent. The consequence of this liquidation is that, while thereby the available surplus wealth, which still accrues in hard times, though in diminished volume, is fully absorbed and may truly be said to be "invested," such investment does no good to the "working forces," but its evil effects are spread far and wide by the "multiplying principle." Probably no one will be disposed to deny that failures make dull business, but the proposition that forced sales tend further to decrease employment is disputable, especially when carried to an extreme. However, Mr. Johannsen boldly claims that investment by the solvent capitalist is the injurious act: "One billion dollars of savings, if invested in the 'impairing form,' will not augment the country's wealth, but will, according to the figuring above, annihilate the income of the community to the extent of $5,000,000,000" (page 46). It is needless to say that the "figuring above" is cut to fit the proposition. But this position is subjected by the author to subsequent modification, as the exigencies of an elaborate process of "ques-

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tions and answers," "objections and replies," demand. It is repeatedly acknowledged that "impoverishment" is the cause of the making of the impair investment (pages 47, 51); and that the injurious process lasts but a little time (pages, 48, 49, 52). The blame for unemployment, or whatever be the bad effects of depression, is sought to be laid, through innuendo, on the capitalist who comes to the rescue of persons who are compelled to sell (pages 52, 53). The looseness of this view finally impresses the author, for, without rewriting the earlier part of his book, he proceeds, in a subsequent chapter, to explain that really it is the saving, not the investment, that does harm. The idea now is that savings lie about loose awhile, as it were, and that the harmful effects on the "working forces" are produced in this way. But this interruption does not last long (pages, 48, 49, 84)—and hence cannot do much harm!

> All economists agree that the saving activity will cause a minus of demand unless this minus be counterbalanced by the act of investment. And inasmuch as practically all savings funds *are* invested (otherwise they would accumulate in the money market) the economists (*sic*) concluded that such counteraction always does take place, no matter what the particular form of investment [page 81].

This specimen citation (in which he at first appeals to economic authority) involves several of Mr. Johannsen's views: one is that there is such a thing as saving without investment. The cessation of "demand" is now attributed to saving-which-is-not-investment. If anything, it must be either an untouched surplus or a hoard. Either conception, especially the latter, is very doubtful, and yet Mr. Johannsen does not balk at belief in a financial hoard. If the social surplus is manifested by financial debts, as is generally the case in modern times, somebody must be hard at work paying them off. But no, we have: "the hoarding form, where savings are not invested at all, but remain in the shape of idle cash funds, at least for a long time. This form is known to be highly injurious to business" (page 86). This is evidently the description of a financial gyascutus. Mr. Johannsen is exceedingly concerned about the falling-off of "demand" in a time of depression, and regards his theory as really accounting for it by the deflection of capital into the sands of the desert of "impair investment." He evinces no conception of the difference between real and nominal capitals nor of that between the demands for goods and services arising respectively from them. However, a special book like this may show the handwriting on the wall better than a more academic treatise. We

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may neglect Mr. Johannsen's "neglected point," but we must heed his method of analyzing economic well-being by means of a study of finance rather than of the more visible evidences of production and distribution. The effect of the author's phrases has perhaps been diminished by the elimination, in this review, of most of his italics and all his capitals.

W. G. L. TAYLOR.

THE UNIVERSITY OF NEBRASKA.

Le Crisi Economiche. By CAMILLO SUPINO. Milano, Ulrico Hoepli, 1907.—xi, 202 pp.

The book under review comprises a course of lectures delivered at the Università Commerciale Bocconi at Milan. The ground of crisis theory is covered in a clear and comprehensive manner, and yet without unnecessary expansion. The treatment is pleasing, well-proportioned and fair. Any treatment of crises demands patience of the reader, since, in a subject so intricate, he is prone to jump to conclusions not intended by the author. Five chapters are devoted to causes of crises, which are uniformly found to be some form of overproduction. Professor Supino is therefore to be classed as an overproduction theorist (page 72). He combats very justly Mill's denial of the possibility of a general overproduction, and yet it is striking that his own theory is not one of general but of partial overproduction. Another way of expressing his principle is to say that all crises are the consequence of a lack of harmony between production and consumption. Capitalistic production, again, involves the use of credit; wherever there is no barter there must be crises. This test lends a socialistic air to these chapters; but it is undeniable that a systematic study of disturbances in demand and supply is highly desirable, and, for a short statement, the present one is admirable. Moreover, when it comes to the question of remedies, the discussion is thoroughly organic and without suspicion of *parti pris* (pages 73, 87, 147). The author manifests his independence by a rejection of the principle of fatalistic monopoly involved in Bellamy's illustration of the reservoir (page 61); he also rejects Marx's position that transfer of capital from wages to machines necessarily lowers returns (page 67).

On the other hand, there is much to criticise in an attempt to make underconsumption or overproduction the touchstone of the crisis problem. There is a palpable begging of the question of classification in defining as crises all the results of disharmony of production and consumption. A painful asymmetry is manifested in chapters vi to viii,

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which treat of the course of crises, the statistics of crises and depressions, precisely from the old, familiar, financial point of view. In the earlier chapters, a crisis was any evil effect of disharmony between production and consumption; but now we have a number of distinct stages, in which the crisis is distinguished from the *crach*. In these central chapters, it is the financial crises that is solely kept in view. And yet, when our author comes to treat of special crises on the stock exchange and in industry and commerce, he treats them as exceptions from the typical crisis, which, although financial, is calmly assumed to have been simply a result of overproduction. He seems to feel this inconsistency in his attempt to criticise the position of Lescure, that a crisis is caused by the arrest of investment (page 75). He often appears to be on the point of grasping the financial conception that fall of profits must occur as a result of over-investment, but is always sidetracked by a prepossession that it must have something to do with cost of labor:

> A misura che cresce la ricchezza nationale ed il capitale si accumula, aumentano sempre più i salari, o per dire meglio cresce il costo del lavoro, sia per la maggior domanda di lavoro, nel caso che la popolazione rimanga stazionaria, sia per il maggior costo delle sussistenze, nel caso che la popolazione si accresca; e il rialzo del costo del lavoro determina un ribasso nei profitti.

As a study of consequences flowing both from dynamic and from accidental disturbances in the equation of production and consumption, these lectures are especially satisfactory.

W. G. L. TAYLOR.

UNIVERSITY OF NEBRASKA.

The Industrial Organization of an Indian Province. By THEODORE MORISON. London, John Murry, 1906.—vi, 327 pp.

The English Peasantry and the Enclosure of Common Fields. By GILBERT SLATER. London, Archibald Constable and Company, 1907.—xiii, 337 pp.

Coöperation at Home and Abroad. By C. R. FAY. London, P. S. King and Son, 1908.—xvi, 403 pp.

The student of agricultural problems who reads these books will find added interest and value if, when reading one, he keeps carefully in mind the salient points of the other two. All three writers are Englishmen and all are concerned with the establishment of a prosperous

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small farming population. Mr. Morison tells us of conditions as they are to-day and have been for countless generations—conditions which, though in the modern world, are not of it. The mass of the people of India gain their living directly from the soil; the wage-earner scarcely exists; tradition and long usage, incased in the village community, rule with a hand of iron. Mr. Slater calls our attention to the time when very similar conditions obtained in England and attempts to discover to what extent the ancient institutions or forms of organization are applicable to the conditions of modern England. He appeals to the past to come to the rescue of the present. Mr. Fay, like Mr. Morison, concerns himself with things as they are; but his is a modern world and the forces which he says are transforming it are modern forces. He tells us of the application of the latest discoveries in the most wide-awake nations of the globe. The following illustrations bring into contrast the points of view of the writers. Earl Carrington, in his interesting introduction to Mr. Slater's book, declares: "The village community is a hope of the future as well as a memory of the past"; and the author sees in its destruction the undoing of a prosperous peasant class. Such a community, Mr. Morison points out, is the industrial unit in India. Each village is self-sufficient and economically independent to a striking degree; but he shows that, as every student of India knows, the life in these villages is submerged in squalor and poverty and reform waits on their dissolution. On turning to Mr. Fay, we discover that Denmark has been most successful in creating intelligent and prosperous peasant proprietors; and we may add that the Danish government deliberately and consistently broke up the villages. Mr. Slater insists that British agriculture must be democratized, meaning "that the principle of collective ownership of the soil must be established or reëstablished, the ancient rights of independent access to the soil for every tiller of it must be restored, and agricultural coöperation must be revived in new forms suitable to modern conditions." These remedies "will do away with dehumanized toil and bring about wholesome, hopeful human work." But Mr. Morison points out that mere access to the soil does not necessarily mean freedom from "dehumanized toil"; the rising class of agricultural laborers is often better off than the ryot who works his own plot of ground. Mr. Fay declares that "agriculture does not, except in very rare cases, lend itself to collective control"; and the coöperation which he considers the keystone of modern agriculture can scarcely be regarded as either the survival or the revival of that which Mr. Slater tells us existed in the village community of former days.

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Mr. Morison was formerly principal of the Aligarth college and he confines his study to the united provinces of Agra and Oudh. In a series of disconnected chapters, he discusses the economic conditions there obtaining. The picture is not a pleasing one. Peasant and artisan are enthralled by traditions and customs that make change difficult and the accumulation of capital almost impossible. The peasant, within his narrow horizon, receives little stimulus from the outside world and does not become acquainted with new ways of doing things; he lacks capital and is hopelessly in debt to the usurer; uncertain tenure and ill-defined relations make him the prey of the landlord; he is chronically underfed and his standard of living is wretched.

While the author thinks that the government has not sufficiently protected the peasant as against the landlord (*zaminbar*) and that dual ownership solves nothing, he does not hesitate to say that the government's attempts to better conditions are accomplishing wonderful and lasting results; but he declares that it is through the people themselves that redemption must come by means of coöperation as practiced in Europe; and for the benefit of Indian students he devotes a part of his book to a discussion of its salient features. His limited knowledge of European conditions leads him into some misstatements. While deploring the lack of credit facilities, he is, after all, not sure that facile credit is a good thing; for he insists that it has ruined the European peasant, who is even more hopelessly in debt than his Indian brother It is easy to make out a case against the amount of indebtedness of the Danish, Swiss or German peasant; but there is little ground for comparison between this indebtedness and that of the Indian ryot; and whatever the future may bring forth, such indebtedness represents today better homes and better equipped farms, excellent rural education, fixed capital in coöperative enterprises *etc.*, all of which is reflected in a standard of living that accords with twentieth-century ideals.

Many will take exception to Mr. Morison's opinion as to the relative excellence of Indian tillage. The well-informed native writer Sundararaman declares that lack of adequate and proper tillage is today the chief cause of India's poverty. This Mr. Morison denies.

Mr. Slater's book adds little to our historical knowledge of either common fields or enclosures. He lays emphasis upon the needless destruction of peasant holdings, and he takes issue with Cunningham on the effects of eighteenth-century enclosures on the amount of arable land, insisting that, as in the case of the earlier enclosures, the amount of such land was reduced, and maintaining that, on the whole, enclosures were a direct cause of rural depopulation and greatly increased the

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burden on the poor rates. But the chief interest of his book lies in the detailed accounts of common fields and commons still to be found in England. He shows that the tithe commission of 1873 greatly exaggerated the extent of existing common fields, and he discovers that many such fields are naturally passing away. Still he insists that the common fields of to-day are no mere historical survival but are developing in harmony with modern needs, and he cites the Isle of Axholme as an example, failing to see that the lesson drawn from a community almost wholly given over to potato culture may be quite inapplicable to general farming. Few will deny the importance to the agricultural laborer of the cow-gate, the garden plot and the opportunity to keep a pig; but it is easy to over-estimate the beneficence of holdings too large to be worked without interfering with the chief occupation of wage-labor, or too small to permit the owner to keep a horse and be practically independent of working for wages. Spade culture beyond the garden plot approaches perilously near "dehumanized labor," as is proved by the experience of Denmark, which now aims to set up no peasant proprietor too small to keep a horse. Nor has Mr. Slater disproved Balzac's pregnant statement concerning communal lands, *viz.*: "Impotence is writ large over all these lands without a purpose."

Few students will accept the author's conclusions as to the results of enclosures, the moral effect of which he declares to be "increased misery and recklessness showing itself in increased pauperism and drunkenness. An increase of the quantity of human life is attained at the expense of a degradation of its quality."

Mr. Fay's book, which he divides into four parts: "Banks" (76 pages), "Agricultural Societies" (128 pages), "Workers' Societies" (53 pages), "Stores" (37 pages), is exceedingly interesting. His account of the organization and working of coöperative credit is the best general account I have seen and will form a valuable supplement to more detailed works, such as Wolff's. English and American students in particular will be grateful for this elucidation of the complex relations of German credit organizations. But the chief interest of the book lies in Part II; for while much has been written about other forms of coöperative effort, the significance of the movement in agriculture has lacked adequate treatment by English hands. Though the difficulties of classification and arrangement of material have been well met, the treatment of agricultural societies is disappointing. It suffers from lack of background and intensiveness. Not enough attention is given to governmental encouragement and to the work of such associations as the Irish and the English agricultural organization societies, by whose efforts the

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movement has been put on its feet in the two countries, and of which the one is giving us the New Ireland and the other shares with the government the responsibility for the success of the present movement for small holdings. One line is not enough for Danish *Kontrol* societies; there is not adequate treatment of the German *Kornhäuser*, and the French *syndicats* receive scant attention. The author seems to write outside his subject, and his dependence on out-of-date or untrustworthy material has led him into some errors. He states, for example, that there are no coöperative creameries in Normandy, whereas in 1907 there were eight, with as many more planned. And the statement that Danish coöperators have flourished at the expense of the taxpayers, in that Danish railways are operated at a loss, is unfair; for while it is true that the policy of the government is not to make large profits, the small deficit, $10,000 in 1907, is due primarily to expensive improvements and is each year growing smaller.

The final two chapters in this section, "Coöperation and the Agricultural Revolution" and "Coöperation and Land Tenure," whether one agrees with all the author's positions or not, are excellent and suggestive. The conclusions which he has reached are stated as follows: "Just as industry is tending toward combination, so also undeniably is agriculture. This tendency in agriculture involves the apologist of agricultural coöperation in a dilemma out of which there is no way." "Over the greater part of western Europe, cultivating by comparatively small farmers is making greater headway than any other form of agricultural administration. In Great Britain, as in Belgium, secured small tenancy is strengthening its position" and in this movement coöperation is of supreme importance, for through it only are the obstacles in the way of small farming to be surmounted.

In Parts III and IV the author is on better known ground and his treatment is critical, fresh and original. Many of these chapters should be of service to beginners. Those discussing workers' societies and labor copartnership deserve special mention.

The author's conclusions as to the importance of coöperation are: "It is coöperation alone which has enabled the small farmer to accomodate himself successfully to the change forced alike upon all agriculturists." "The coöperative store is the token of a great economic and social development, which is profoundly affecting the welfare of a growing majority of the working-class population of every country of Europe."

JESSE E. POPE.

NEW YORK CITY.

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Les Sociétés coopératives de consommation en France et à l'étranger. By J. CORRÉARD. Paris, P. Lethielleux, 1908.—xv, 301 pp.

In Europe the coöperative movement has assumed extensive proportions in more than one field of economic activity, and its literature is becoming voluminous. This study of the distributive phase of the movement, while it adds little to its philosophy, furnishes an up-to-date manual clearly and logically written. The statement, "Les sociétés de consommation constituent une des formes naturelles de la vie économique," made by Professor Paul Leroy-Beaulieu in his *Traité théorique et pratique d'économie politique* and recalled in his interesting introduction to the present volume, is strikingly borne out by the fact that this form of coöperation is found to some extent in every country which has felt the touch of civilization; and each year witnesses its further growth and expansion. Great Britain, whose Rochdale Pioneers discovered the fundamental principle of successful distributive coöperation, the sharing of profits in proportion to purchases, and have given inspiration to the rest of the world, holds first place. The movement has also made marked progress in Germany, Belgium, Denmark, Holland and France; there are important beginnings in the British colonies; and even Japan has its societies. In the United States there is, as the author indicates, very little distributive coöperation, though had he investigated the Grange movement he would have found more.

Part I treats of coöperation previous to the establishment of the Rochdale store in 1844. The account is based largely on the works of Holyoake and Miss Potter and brings out little that is new. Part II traces the subsequent development of the movement in the various countries, with special emphasis on Great Britain and France. A final chapter treats of the future of coöperation. The English coöperators have been opposed to financial aid from the state, and this has been the attitude of coöperators in other lands. In all countries there is growing tolerance; oppressive laws have been repealed and the movement has received official recognition; but only in Belgium, where socialistic sentiment is strong, has the government granted direct aid. The neutral attitude which most governments assume is in part due to fear of offending the numerous merchant class.

The failure of the movement to enlist the support of the trade unions is largely owing to the fact that where the movement is non-socialistic it does not appeal to class interests. In England, although the officers

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favor alliance with the labor party, the rank and file of coöperators are opposed to such a policy.

The author devotes but little attention to the important question of the relation of the society to its employees. The question has divided the English coöperators into two rival camps: those who, with the commercial success of the movement at heart, have been willing to let the society play the rôle of capitalistic employer, and those more idealistic persons who, laying stress on the social phase, advocate labor-copartnership or profit-sharing. The former idea has generally prevailed, although it is claimed that coöperative societies pay higher wages than does competitive industry and provide better conditions of employment in general. In France it is difficult to get good employees of the faith, and, as a consequence, they lack interest in the success of the business; but on the other hand the French socialistic societies have found that when employees are zealous in the faith this redounds more to the benefit of the socialistic party than to the advancement of the society's affairs. The author believes that, in order to win the interest of the employees, it will be necessary to adopt the Danish system of paying a commission on sales. Coöperators are beginning to appreciate the importance of skillful managers and a permanent, efficient labor force; and in these respects they approach more and more the methods employed in competitive, capitalistic enterprise.

M. Corréard well says that the great work which the movement has accomplished is not the realization of economies through the elimination of the middleman, but the spur to thrift afforded by the unique opportunity to save, the moral effect of cash payments and "the general educative influence." Of this he says:

> It is conceivable that, from the economic point of view, the concentration of commerce and industry in large establishments can procure for consumers nearly the same advantages which coöperation gives them; but from the social point of view coöperation has advantages of a different sort. By the periodical distribution of dividends, coöperation should give birth among the poor to the desire and habit of saving. By grouping individuals for a definite object, it should give them the idea of uniting for other purposes, as for founding institutions of insurance and of credit, and it should show them the way in which they can unite. The large stores can not accomplish this. Thus coöperation can be of greater service to the progress of social institutions than to the perfecting of economic institutions.

JESSE E. POPE.

NEW YORK CITY.

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David Ricardo's Grundgesetze der Volkswirtschaft und Besteuerung. By Dr. Karl Diehl. (Bände II und III, Socialwissenschaftliche Erläuterungen.) Leipzig, Wilhelm Engelman, 1905.—xiii, 427; 529 pp.

It is a remarkable circumstance that of the three great figures in the formative period of economic science, one alone, Malthus, has received adequate exposition. Dr. Bonar in his *Malthus and his Work* has given a splendid example of what hard scholarship, intimate grasp and analytical power can do in the way of reconstructing a mental history. The labors of Hasbach, Rae and Cannan promise to give us a new Adam Smith; but at present the interpretation is suggestive rather than definitive. As to Ricardo, in many respects the most alluring of the triad, the exhibit has been depressing. McCulloch's eulogy, Held's caricature, Gonners's estimate, all leave much to be desired by the economist as by the historian, and such real contributions as have been made are to be found in the brief but illuminating studies of Marshall, Patten and Ashley.

Into this breach Dr. Karl Diehl, the learned professor of political science in the University of Königsberg, has thrown himself. Nominally a "new and revised" edition of Baumstark's *Erläuterungen,* the two stout octavo volumes, extending over some nine hundred and fifty pages, are in content entirely independent of the commentaries of the early translator of Ricardo. The only reference to the connection is found in the somewhat misleading title of the work, and in a prefatory statement that the publishers' desire to make accessible Baumstark's work, long out of print, is indirectly responsible for the appearance of Dr. Diehl's treatise at the present juncture.

The method of treatment which Dr. Diehl has adopted is precise and systematic. To Ricardo's theories of value, of rent, of wages, of interest and profit, of money, of foreign trade, of crises, over-production and machinery, of taxation, are assigned successive chapters. In each case the theory is first outlined; then follow sections of critical commentary; finally there is a resumé of the historical development of the doctrine. A concluding chapter is devoted to a discussion of Ricardo's general place in the history and method of social science.

Some question might be raised as to the proportionate allotment of space. Value and wages occupy one entire volume, almost as much as all the other topics combined. Taxation is compressed within sixteen pages, less than is accorded the sub-division on technical improvements in agriculture, in connection with the theory of rent. In gen-

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eral the earlier chapters are more extended than the later, and it may be that physical limitation rather than relative importance has been the determining factor.

As an expositor proper, Dr. Diehl is clear and succinct. He has studied Ricardo's difficult text diligently and to good purpose. Involved passages are deciphered, detached expressions are segregated, and elliptical dicta are elucidated. There is here the material for a useful epitome of Ricardo's doctrines in their ultimate form. The signal defect of the expository sections is their failure to trace, in connection with each theory analyzed, Ricardo's mental history. Successive doctrines are set forth as things definite and rigid, yet close students of the Ricardian doctrines know that the brief span of Ricardo's scientific life was a period of mental flux, and that friendly correspondence, polemic controversy, objective environment contributed, at every stage, influences that are always traceable and sometimes measurable. In another place the present writer has sought to make this clear with respect to Ricardo's theory of value, and something of the same task awaits patient investigation with respect to each of the remaining doctrines.

In his second phase, as critic of Ricardo's theories, Professor Diehl displays rich bibliographical equipment, acute analytical power and a degree of mental balance that is unusual among historians of the classical political economy. To the American economist it will appear that undue prominence has been accorded the Marxian criticisms. It is likely that in sheer mass this controversial literature exceeds the whole remaining body of *Ricardiana,* and that about it has raged no small part of the economic debate of nineteenth-century radicalism. Yet to students on this side of the Atlantic, removed from the heat and din of battle, the socialistic polemic seems to possess little of enduring value and to take rank as a hyper-critical dialectic rather than a scientific correction.

The third part of Dr. Diehl's work is the *dogmenhistoriche* section appended to each chapter. This is the least satisfactory part of the treatise. Ordinarily chronicled in a few pages, the usual result is a crass *rechauffé* which suffers painfully in contrast with the brilliant contributions of Bonar and Cannan. Indeed, it is this insufficiency of background, both as to earlier doctrines and as to objective environment, that constitutes the prime defect of Professor Diehl's notable performance. Ricardo's doctrines are set forth as things in themselves, rather than in relation to the thought which preceded them and the events which determined them. In so far the author marks a reaction

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from the materialistic interpretation of Held and Cannan and, more regrettably, a departure from the sympathetic appreciation of Marshall and Patten.

Professor Diehl's technique seems throughout skilful and accurate. Here and there occurs a slip: "Wichow" (I, 44) for "Whishaw"; "viel Opposition" (II, 273) in translation of "little opposition"; and, somewhat more surprising, in two distinct places (II, 262, 273), the ascription to McCulloch himself of editorial annotations upon Ricardo's letters to McCulloch.

Professor Diehl has done a dignified and substantial piece of work. It is not a definitive achievement in the sense that Bonar's *Malthus* is, or Cannan's *Adam Smith* is likely to be. But no present student will fail to be grateful for, and no future worker can afford to neglect, this valuable contribution to the history of economic thought.

JACOB H. HOLLANDER.

JOHNS HOPKINS UNIVERSITY.

Value and Distribution. By HERBERT JOSEPH DAVENPORT. Chicago, The University of Chicago Press, 1908.—ix, 582 pp.

The remarkable acuteness of mind and enthusiasm for the subject shown in Professor Davenport's work command the admiration of his reader. One cannot refrain from commenting upon what might be called the great endurance in theory exhibited by this author. He seems to have followed into its utmost ramifications almost every problem in the whole range of his intricate material. From Adam Smith down to our latest writers, the principal thinkers who have influenced the development of the economic theory of the English language, including those of the Austrian school, are passed under a lengthy and searching review. It is the plan of the work to develop in such a review the true theory of value and distribution. Could we grant the author his own statement in the preface, what he accomplishes in the way of construction has followed merely from "the selection, delimitation and articulation" of existing theories, since economics has been for some time "in possession of doctrines enough for a reasonably complete, consistent and logical system of thought—if only these doctrines had been, with a wise eclecticism, properly combined." But Davenport's efforts are too destructive to permit us to class him as an ordinary eclectic. He has believed it necessary

to rid the science of the following doctrines that do not belong to it, *e. g.*, labor-time, labor-pain, utility, and marginal utility determinants or meas-

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ures of value; real costs; marginal fixation of price or of distributive shares; price-determined and price-determining costs or distributive shares; instrument margins; marginal productivity distribution; price measures of utility; the social organism; fundings of productive agents; the tripartite classification of productive factors [page ix].

Some items of this list make the contract look large! Many of the threatened dogmas will command the services of able defenders before they expire. However, Professor Davenport shows himself able to handle well a large theoretical contract.

Considering the inherent difficulties of the subject-matter of the book, and considering what has been added to these difficulties by reason of the author's method of going into every perplexing branch problem, it is unfortunate that his style is far from perspicuous. The long, unbroken sentences, with numberless compound nouns and nouns used with the force of adjectives, in which the mind sometimes first expresses itself when engaged in hard thinking, are ever present and constitute (allow me to become Davenportesque) the style-crime of the book. Odd expressions abound, some of remarkable felicity, but the majority more confusing at first than helpful. And yet at times, it must be said, the exposition shows a positive literary sprightliness and brilliancy. (For instance, see pages 304 *et seq.*)

The work fairly bristles with controversial issues, and the reviewer feels that it would be unavailing to make an arbitrary selection of one of these for the inadequate comment possible under present space limitations. Mention may be made, however, of the author's especial claim that the theory of value and distribution must come by its most important reforms through our taking and holding consistently the "entrepreneur viewpoint" in our reasonings. It is the body of entrepreneurs engaged in the production of any commodity who determine its supply, and in this way help to determine its value, and who pay the actual shares in distribution, into which its value is divisible. If cost in any form is to govern or help govern market values, it must be in the first instance entrepreneur's cost which so operates; and if any more fundamental or more remote form of cost governs, it must do so only by way of, and to the degree of, its influence upon entrepreneur's cost. And again, if any force or factor is to determine actual shares in distribution, it can make itself effectual only by controlling the disbursements of entrepreneurs. To maintain the entrepreneur viewpoint means to keep these things ever in mind, and to test any proposed principle of distribution by the actuality of its operation upon entrepreneur activity. By resort to this test, the author condemns, for in-

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stance, the tripartite classification of productive factors, since the supposed reasons for placing land, labor and capital in distinct classes are not real from the entrepreneur's standpoint. It has been urged that the hires of some of the factors of production are price-determining and others price-determined; but if all hires look alike to the entrepreneur, the reality of this distinction must be denied. Professor Davenport's contentions upon this subject are well taken in so far as they amount to the claim that any alleged factor in distribution is real only when it determines entrepreneur activity; but the reviewer's first experience with the book leaves him with the impression that the author goes too far in his insistence on the entrepreneur "viewpoint." Though "science" is sometimes said to abhor an object, it is quite certain nevertheless that the principal object of economics is such an understanding of whatever laws may underlie the industrial system as will enable us to be good judges in questions of economic policy. Granted that an unconscious shift from one viewpoint to another in our reasonings is as good as certain to result in fallacy, it nevertheless remains true that the object of economics requires that we examine the industrial system from every possible point of view. Important forces, which in fact from a distance determine entrepreneur operations, may easily be entirely invisible from the entrepreneur's own viewpoint. These forces would be chiefly what Davenport himself, no doubt, would describe as governing the "fundamental situation facts" of entrepreneur industry. And it is certain that he would himself admit, as a proposition in general terms, that it is necessary to take many viewpoints (see page 154), but it remains true, unless the reviewer is mistaken, that Davenport's affection for the single viewpoint prevents the rounding-out of his work.

The book is not a "principles of value and distribution" of an ordinary type. It is not a presentation of a rectilinear positive theory of distribution, subdivided into its own logical parts. The entire exposition is made practically subservient to the purpose of reviewing authors one by one, mainly in their historical order. There is no separate chapter on wages. The reader is left with the impression that a positive theory exists between the covers of the book only in the shape of what is left undestroyed of all that the author has passed through his crucible—and the first impression is that, according to the author, this is not much. The next to the last chapter in the book, under the title of "Distribution," is as highly generalized as it is scanty (it contains fifteen pages), and the last chapter of all, "Summary of Doctrine", gives seven pages of greatly condensed and rather disjointed formulas,

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the whole making a very meager positive theory. All told, the work is searching and acute, and it covers a large ground in a very able manner; but it will be useful only to distinct specialists in economic theory. The reviewer would be glad to see from the pen of Professor Davenport a systematic formulation of the theory of value and distribution, treated in the order required by its own logic, without reference to the history of doctrine.

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Über den amerikanischen Stahltrust. By JULIUS GUTMANN. Essen, G. D. Baedeker, 1906.—166 pp.

The American steel industry has received attention abroad as well as at home from students interested in the so-called trust problem. In Germany, where combinations have assumed a form different from that which they have assumed in America, this interest has been marked; and Dr. Gutmann's monograph is illustrative of this fact. The work may be divided into three parts: the first treating of the genesis and organization of the corporation and its subsidary companies; the second dealing with certain problems and policies of the combination, such as the question of monopoly control, the relations to employees and financial management; and the third comparing the Steel Corporation with the Steel Syndicate of Germany.

There is an abundance of statistical material and of citations from public documents in the monograph, which forms an excellent source from which conclusions may be drawn. In its present shape much of the work seems more like a catalogue of raw material than an attempt to analyze the conditions giving rise to the corporation and the influences which the corporation has exerted upon the iron and steel industry. Some topics, however, such as the administrative organization of the Steel Corporation and its policy toward employees, receive elaborate and careful treatment. With reference to the latter of these subjects the author devotes considerable space to the profit-sharing scheme of the company and shows its relation to similar schemes in the Carnegie and other subsidary organizations previous to the formation of the great combination itself. In its attitude toward labor unions the policy of the corporation has been practically the same as that of the Carnegie Company after the great strike of 1892.

For the American reader the most interesting part of the monograph is the last chapter, in which the writer compares the corporation with the German Steel Syndicate. While the author believes that the Ameri-

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can company has reached a degree of concentration surpassing that attained by the German combination, he doubts if its monopoly power is as great. Notwithstanding the control of the principal sources of raw material which the Steel Corporation enjoys, it is subject to considerable competition from independent concerns. The author intimates that its power may be reduced if the tariff on raw and crude material should be lowered or abolished and independent companies are enabled to rely on foreign ore and coal—a matter of considerable present interest in view of the recent testimony on the tariff taken in Washington. It is also, according to the writer, more difficult to purchase a controlling share in a formidable competing corporation under the American system than it would be to secure its coöperation in a syndicate under the German system. Dr. Gutmann, while recognizing the splendid organization of the Steel Corporation, doubts if it has secured as great technical efficiency as has the German Steel Syndicate.

A. BERGLUND.

WASHINGTON STATE COLLEGE.

La Vie politique dans les deux mondes. Edited by ACHILLE VIALLATE. Paris, Felix Alcan, 1908.—xv, 696 pp.

Jahrbuch des öffentlichen Rechts. Edited by JELLINEK, LABAND and PILOTY. Tübingen, J. C. B. Mohr, 1908.—x, 669 pp.

Wirtschaftspolitische Annalen. By FRIEDRICH GLASER. Berlin, J. G. Cotta's Nachfolger, 1908.—xxxvi, 500 pp.

Die Weltwirtschaft: ein Jahr- und Lesebuch. I. Theil, Internationale Ubersichten; II. Theil, Deutschland; III. Theil, Das Ausland. Edited by E. VON HALLE. Berlin, Teubner, 1907.—vi, 368; viii, 284; vi, 288 pp.

At the opening of the twentieth century, when the world has become a great economic unity and momentous changes are occurring hourly even in the most ancient institutions, it is an alert teacher who does not find himself constantly talking about "contemporary" ministries that are dissolved and gone, statutes that have been repealed, economic policies that have been abandoned and cherished doctrines that, if not obsolete, are obsolescent. Bewildered as he is by the ceaseless grind of the printing press, he ought to welcome heartily these new attempts on the part of French and German scholars to give systematic and authoritative guidance to our contemporary history so feverishly in the

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making. For general purposes, the most noteworthy of the three enterprises is the French annual published under the direction of M. Viallate, supported by a corps of eminently qualified assistants more or less intimately associated with the School of Political Sciences at Paris. In order to include most of the parliamentary activities, the volume covers the twelve months from October 1, 1906, to September 30, 1907; it is prefaced by an eloquent introduction by M. Leroy-Beaulieu; and it opens with a general survey of the international political situation from the pen of M. Tardieu. The various countries of the world are then taken up *seriatim*, and their domestic history is chronicled in a manner that commands confidence and excites admiration by its clearness and discrimination. The chief international agreements are catalogued and calendared, and the economic tendencies of the world are succinctly reviewed. A full analytical table and a careful index facilitate the discovery of any fact regarding which one may desire information. It is impossible within the limits of this review to give a sufficiently impressive notion of the excellence of the work. It is to be commended to all students of contemporary history for its brevity, pointedness, arrangement, proportion and good temper.

The second volume of the *Jahrbuch* published under the high auspices of Professors Jellinek, Laband and Piloty partakes more of the character of an annual register of public law than its predecessor (reviewed in this journal, vol. xxiii, p. 177), and a steady improvement in this respect is promised in the preface. This will be gratifying to students, for it was to be feared that the *Jahrbuch* might be encumbered with special articles which, however excellent, more properly belong in the *Archiv für öffentliches Recht*. Professor Laband reviews the German imperial legislation for the year 1907, and this is followed by a survey of important developments in public law in Prussia, Bavaria, Würtemberg, Baden, Hesse and Hamburg. Recent legislation of Belgium, Greece, Finland and Denmark (including the new Danish bill dealing with the problem of unemployment) is summarized. The separation of church and state in France is treated in a long and splendidly documented paper, both timely and well balanced. From the pen of Professor Ulbrich we have two articles on the new Austrian electoral law and the recent economic readjustments between Austria and Hungary. Professor Siotto-Pintor sketches the constitutional evolution of Italy from 1893 to 1907; Professor Posada puts us *au courant* with Spanish politics of the present day; Dr. Steinbach does the same for Hungarian constitutional law; Dr. Schlessinger cuts a way through the tangled institutional development of Russia during the last troublesome

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years; and Professor Huber discusses the second Hague Conference. The editors are to be congratulated on the intrinsic merits of this volume and on its advance over the first.

The political economist, growing ever busier with problems of taxation, finance and social policy, will find helpful guidance as to the most recent happenings in Glaser's *Wirtschaftspolitische Annalen*, now in its second year. This work is not a balanced survey of the whole world after the fashion of the *Vie politique*, nor a collection of articles like the *Jahrbuch*, but a register of contemporary events arranged in chronological order and carefully indexed. All countries are included within its view, but more than one-half of the book is devoted to Germany, while the United States gets less than thirty pages. Nevertheless, the volume is an excellent key to the study of the important features of social legislation for the year, the economic measures considered or acted upon by governmental authorities, the social policies of various political parties and semi-political associations and matters of a kindred nature.

Scientific work in economics and social economy is further facilitated by the *Weltwirtschaft* prepared under the direction of Dr. Ernst von Halle by a large number of eminent specialists. This truly monumental annual falls into three parts: (1) a general review of world politics, social policy, production, intercommunication, insurance, finance, mechanics, poor laws and industrial legislation; (2) a detailed study of all branches of German industry; (3) special studies of economic progress in the various countries of the world during the year 1906, written by scholars possessing the requisite intimate knowledge. Obviously no reviewer can pass judgment upon the vast mass of descriptive and statistical materials brought together in this work, but it seems that nothing of importance can have escaped so intensive a study of the world's business. Whoever would know the dividend of the United States Steel Corporation, the total colonial trade of France, the exports of Java, the public-works expenditures in Roumania, the state of railway construction in the Cameroons, the number of German workers affected by strikes in 1906 and a thousand other things of economic character, will find in these pages either full information or satisfactory guidance.

CHARLES A. BEARD.

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BOOK NOTES

The second Hague Conference has caused the production of several books on international arbitration. Among those which have recently appeared in the English language we note: *International Arbitration as a Substitute for War between Nations* by Russell Lowell Jones (St. Andrews, Scotland, University Press, 1908; 269 pp.). Mr. Andrew Carnegie, the rector of St. Andrew's University, offered five prizes for essays on this topic, and the present volume received the first prize. It is written in a stilted, disconnected fashion and in a tone that is excessively complacent. The writer claims a "measure of originality" in treating his topic historically. He has consulted a large number of the writers on arbitration, and he has freely quoted their opinions. The book was written before the second Hague Conference completed its work.

Two Hague Conferences (Boston, Ginn and Company, 1908; 516 pp.) by William I. Hull, an American journalist who was at The Hague during the second conference, is written for the teachers of this country, to whom the National Educational Association has commended the careful study of "the work of the Hague Conferences and of the peace associations." Mr. Hull's method of presentation is one of description and assertion; the "whys and wherefores" are generally omitted, as is also the historical setting of the several points discussed and acted upon by the Hague conferences. Though the book contains a clear statement of the happenings at the conferences, it is doubtful whether it will prove interesting or intelligible to the majority of American teachers; for unfortunately their work and experience have not been such as to give them an understanding of the present problems of international law and diplomacy. No effort is made by Mr. Hull to indicate collateral reading on any of the points discussed.

Texts of the Peace Conferences at The Hague, 1899 and 1907 (Boston, Ginn and Company, 1908; 447 pp.) is edited, with an introduction, by James Brown Scott, the solicitor for the Department of State and the technical delegate to the second Hague Conference. This will be a useful volume. It contains in parallel columns in French and English the conventions, declarations and resolutions formulated at the Hague conferences; a table of the signatures and reservations of the several states, indicating the final vote given in each case; the official corre-

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spondence relating to the calling of the two conferences, and several documents which are by nature related to the Hague convention, *e. g.*, the declaration of Paris, Lieber's instructions, the Geneva conventions of 1864, 1868 and 1906, the declaration of St. Petersburg, 1868, the Brussels project of 1874, the laws of war on land recommended by the Institute of International Law in 1880 and the convention of 1904 regarding hospital ships. The whole is well indexed. There is only one defect; the extent to which these finely formulated instruments have become by ratification binding upon the several states is not indicated. The interesting account of the two conferences by Dr. Scott which appeared in the second volume of the *American Journal of International Law* is reprinted as an introduction. The secretary of state, Mr. Root, points out in a prefatory note that the test of the achievement of an international conference must always be "not merely what it has accomplished, but also what it has begun, and what it has moved forward. . . . Each necessary step in the process is as useful as the final act which crowns the work and is received with public celebration."

Under the title *The Laws of War on Land* (London, Clarendon Press, 1908; 149 pp.), Thomas Erskine Holland has painstakingly formulated into a code the written and unwritten "laws" which appear to him to govern the conduct of land warfare. Mr. Holland is the recognized authority upon this topic of international law; his "handbook", issued by the British government in 1904 "for the information of his Majesty's land forces" corresponded in a general way to Lieber's "Instructions" issued by the United States in 1863. In an introductory chapter, Mr. Holland brings down to date the chapter entitled "The Progress towards a Written Law of War" which appeared in 1898 in his *Studies in International Law*. The process of systematizing the laws of war by international discussion which commenced with the Convention of Geneva in 1864 and which has "since intermittently continued," says Mr. Holland, "has, for the present culminated in the results achieved by the Peace Conference of 1907." The sources from which he gathers his written law are: (1) the Hague convention number IV of 1907, "concerning the laws and customs of war on land"; (2) the *règlement* annexed thereto; (3) the Hague convention number III of 1907, "concerning commencement of hostilities"; (4) the Geneva convention of 1906, "for improvement of the condition of the wounded and sick in armies in the field"; (5) the St. Petersburg declaration of 1868, "concerning the prohibition of explosive bullets in time of war"; (6) the three Hague declarations of 1899 concerning respectively the launching of explosives from balloons,

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the use of projectiles to spread suffocating gases and the employment of expanding bullets; and (7) the Hague convention number V of 1907, "on the rights and duties of neutral powers and individuals in land warfare." Mr. Holland has expended much labor in the preparation of this little book, and the results are presented with the logic and precision which always characterize his work. The commentary accompanying each of the 140 articles into which this "Hague code of land warfare" has resolved itself in Mr. Holland's mind represents a wealth of learning compacted into small space.

M. Léonce Abeille's *Marine française et marines étrangères* (Paris, Armand Colin, 1906; 368 pp.) describes the fighting power and bureaucratic organization of eight navies—those of France, Germany, England, Italy, Austria, the United States, Russia and Japan. The author is "capitaine de frégate et sous-directeur de l'Ecole Superieure de Marine." In Book I, which deals with naval policy, England has thirty-two pages, Germany eighteen, Italy nine, Japan nine, while the United States, Russia and Austria-Hungary are thrown into a chapter of eight pages. Both England and Germany are regarded as models; but the United States has a grandiose policy of which the advantages are problematical. Book II, comprising over two-thirds of the volume, deals with the organization of navies, taking up budgets, command, recruiting, instruction, grades, advancement, arsenals, reserves, mobilization and coast defence. Some of this material is presented in tabular form, as is the strength of the various navies which is treated in a short third book. There is no index.

President D. S. Jordan of Stanford University has reprinted, under the title *The Human Harvest* (Boston, American Unitarian Association, 1907; 122 pp.), three addresses dealing with the cost of war in terms of human lives. The text for these eloquent pleas for peace is a quotation from Novicow, "*la guerre a produit de tout temps une selection à rebours;*" and Dr. Jordan makes eager use of Seeley and Seeck to show that Rome fell from lack of men, not from moral or religious or economic decline. In spite of the ardor of his polemic, we fear that there glows in these addresses a little of the enthusiasm for romance which lends to war its subtle and dangerous charm. The quotations from Kipling and Oscar Wilde send the blood tingling in a way which we suppose the author would condemn, but somehow we, who watch at a safe distance, care less for the poor orphan at home than for the glory at the gates of Kandahar. The peace of the world will not be materially affected one way or the other by such addresses. It is when those who suffer most, the working classes, learn wisdom that

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war will become a thing of history. And they are apparently beginning to learn it.

The popular text-book on the *Elements of International Law*, by Judge-Advocate-General George B. Davis, has reached its third edition (New York, Harper, 1908; 633 pp.). As the active counselor of the War Department for many years and a delegate of the United States to both the Geneva Conference of 1906 and the second Hague Conference, General Davis has had abundant opportunity to keep in touch with the later developments of international practice, and is fully qualified to appreciate such latter-day precedents as, from their relative significance, should find a place in a small volume "designed for the undergraduate students of American colleges and law schools." With those teachers who believe in the old-fashioned law text-book with its assertions, declarations, definitions and descriptions the work of General Davis will find favor. No attempt is made to analyze precedents or to introduce the student by processes of reasoning to the juridical method. The subject is so treated as to appeal primarily to the memory of the beginner rather than to his understanding. Copious footnote references are given to the writings of several international law authors; at times one is surprised to find certain authorities cited rather than others, *e. g.*, among the references given to the bibliographies of international law (page 30) no mention is made of Nys, Olivart or Stoerck. Though the work is free from excessive partiality, there is a pro-American tendency, *e. g.*, no mention is made of the request of Spain for a joint inquiry, by means of arbitration, into the cause of the destruction of the Maine at Havana (page 78). Considering that the volume is intended for beginners it is a grievous slip to speak of the prize court of appeal (page 372) as though it were established by ratified treaties. Of the several books which have undertaken to discuss the Hague conventions hardly any have undertaken to indicate the extent to which the drafts prepared at the Hague have become conventions by ratification and promulgation.

Of the *Two Studies in International Law* by Coleman Phillipson, (London, Stevens and Haynes, 1908; 136 pp.), one deals with "The Influence of International Arbitration on the Development of International Law" and the other with "The Rights of Neutrals and Belligerents as to Submarine Cables, Wireless Telegraphy and Intercepting of Information in Time of War." The first study traces briefly a few of the leading events which have influenced the development of arbitration and points out in popular language some of the rules of law applied in some of the arbitration settlements. The author says, speak-

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ing of the future development of the law by means of arbitration, "only if delivered with strict impartiality, with deliberate judgment and after thorough investigation will decisions and awards be able to command general respect and help the growth of the law." He gives much credit to England and America for the development of arbitration "procedure"; this and their influence on the law of nations, he says, "have mainly been secured through the Anglo-Saxon race, with its political far-sightedness, practical skill and constant devotion to free institutions." In his discussion of the rights of neutrals and belligerents, Mr. Phillipson falls into the error of making impartiality rather than abstention the chief test of neutral obligation.

A dissertation by Arnold Bolle of the University of Zurich, bearing the title of *Das interkantonale Recht* (Imprimerie du National Suisse, 1907; 207 pp.), endeavors to present in compact form the interstate relations of the Swiss cantons. The work discusses not only the treaty relations which exist among the cantons, under powers granted to them by the Swiss federal constitution, but also the political and administrative organs through which the cantons coöperate with each other in the conduct of governmental affairs.

Völkerrecht (Tübingen, J. C. B. Mohr, 1908; 555 pp.) by Professor E. von Ullman of the University of Munich is an expanded revision of his article on international law published ten years ago in the *Handbuch des Öffentlichen Rechts*. The author, differing from most continental writers, recognizes that the doctrine of conditional contraband, so long favored by Great Britain and the United States, has gained acceptance in modern practice (page 531). He disapproves of Russia's position in the early part of the Japanese war in prohibiting the carriage of rice to Japan. On the other hand he criticises the Anglo-American doctrine of continuous voyage as applied by American prize courts in the case of the "Springbok" and the "Peterhoff" and by Great Britain in the Boer war. He believes that goods should not be considered contraband when destined for a neutral port. He indicates his preference for the dictum of Sir William Scott that the alleged contraband must be taken *in delicto*. He cites with approval the extreme view of Holland (*Manual of Naval Prize Law*, paragraph 72) that it matters not if the papers themselves show an ulterior destination. The views of Holland, as there expressed, were specifically relied on in 1900 by the German Foreign Office in demanding the release of the "Bundesrath"; and as the *Manual* was an official publication of the British Admiralty Count Hatzfeldt laid great emphasis upon its statements as a sort of admission against interest. Lord Salisbury denied that the doc-

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trine of neutral destination could apply where the enemy's country had no seaboard, but satisfied the German demands by a release of the ship after examination. The point has never been decided, but the present work would seem to show that German authority is against the doctrine of continuous voyage.

Ueber die völkerrechtliche clausula rebus sic stantibus (Duncker and Humblot, Leipzig, 1907; 226 pp.), is a posthumous publication of a study by Dr. Bruno Schmidt, Professor at Heidelberg University. With very meager reference to the precedents and little or no analysis of them, he attempts by means of speculative discussion to discover the conditions under which a treaty may be modified or abrogated when a state of things which was the basis of the treaty and one of its tacit conditions no longer exists.

In commemoration of the fiftieth anniversary of Paul Laband's doctorate the customary *Festgabe* has appeared, made up of essays on subjects of public law. Two of these have also been published as separate pamphlets. In *Die Organisation der Welt* (Tübingen, J. C. B. Mohr, 1908; 79 pp.), by Walter Schücking, professor of law at the University of Marburg, which was first given as a lecture before the Bar Association of Vienna, the author seeks to reconcile the ideals of dynastic legitimacy with those of national democracy. Beginning with the world-state of the ancients, he traces briefly the different forms of international organization and reaches the conclusion that the future improvement of the relations among states will be characterized by a general assimilation of the ideals and practices which now prevail in respect to dealings among the subjects of the modern state. He thinks that unless Germany adapts her foreign policy to this inevitable tendency she is in danger of finding herself in an unenviable position, not unlike that which the dynastic state bore to the development of the modern state. The other reprint from the *Festgabe* is *Völkerrecht und Völkercourtoisie* (Tübingen, J. C. B. Mohr, 1908; 41 pp.), by the late Professor Felix Stoerk of the University of Greifswald. The author's thesis is summed up when he says: "As a matter of doctrine and precedent, I am prepared to propose that in the future there be substituted in German technical phraseology for the terms *comitas* and *courtoisie* the term *Verkehrssitte*," *i. e.* customs of intercourse. He takes the position that in international private law the reason impelling states to recognize the application of a foreign law to the administration of justice in cases in which there is a foreign element is not comity but a sense of justice to the litigants. In international public law he does not consider that comity has been a powerful motive in influencing

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the conduct of states; his view is that justice and a "sense of decency" have tended to produce certain standards of state conduct. This sense of justice and of decency is cultivated by the increasing frequency and regularity of contact between different states and their subjects. Dr. Stoerk sees in the policy of the "open door," in the reluctance of parliamentary bodies and other state officers to criticize adversely foreign governments, in the reception of military, naval and agricultural attachés of legation, in the lessened number of secret treaties and in various other directions developments of customs of intercourse which may some day become rules of intercourse.

In a work apparently representing much experience and evidently written with great care, Mr. James Harry Scott has set forth the *Law Affecting Foreigners in Egypt* (Edinburgh, Green and Sons, 1908; 390 pp.). Mr. Scott is a lecturer at the Khedival School of Law, Cairo. In undertaking to unravel the present complications which exist in the Egyptian legislative and judicial systems, he describes the origin and development of all the capitulations and points out many of the evils they have produced. To cure these abuses he considers it inadvisable to abolish the capitulations, as some have advocated, for it is by the capitulations alone that the most valuable privileges are secured to Europeans in Egypt. He contends, however, that they should be modified, in the interest both of the Egyptians and of the Europeans; and he devotes the last chapter of his volume to "The Future Reform of the Capitulations." The book contains a concise statement of the existing governmental arrangements in Egypt and also pertinent observations respecting their actual operation.

Anglo-Chinese Commerce and Diplomacy (Oxford, Clarendon Press, 1908; 332 pp.) by A. J. Sargent, teacher of foreign trade in the University of London, is a scholarly and well-written work prepared from original sources. The author disavows any attempt to analyze the present conditions and tendencies of Chinese commerce, and confines himself to an orderly explanation of the history of British trade with China. In so doing he has wisely omitted the details of political changes and military operations. The scope and content of the book are shown by the chapter titles: "Rule of the [East India] Company"; "Course of Trade to 1834"; "From the Opening of Trade to the Treaty of Nanking"; "From the Treaty of Nanking to the Treaty of Tientsin"; "Course of Trade from 1834 to 1864"; "Interpretation of the Treaty of Tientsin and the Convention of 1869"; "From the Massacre at Tientsin to the Chifu Convention"; "Course of Trade from 1865 to 1884"; "Development of the Policy of 'Spheres of

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Influence' "; " Course of Trade from 1885 to 1894 "; " Renewal of the Anti-Foreign Movement and Recent Economic Changes "; " Annotated Bibliography ". There are several statistical diagrams and tables and a careful estimate of the various statistical reports. The volume is well indexed and the discussion throughout is fair and dispassionate. To every serious student of Chinese problems the work of Mr. Sargent will furnish indispensable aid.

In his *Making of the English Constitution*, (New York, Putnams, 1908; 410 pp.) Professor Albert Beebe White, of the University of Minnesota, has written an excellent book. It discusses the growth of the constitution until 1845, and sets forth the results of the latest and best scholarship pertaining to the period. It is especially full and satisfactory on the development of the judicial system. The material contained in the volume is ample for the needs of the most advanced college classes, and it will be found a most convenient treatise for the law student.

President Woodrow Wilson's lectures on American government delivered in 1908 on the Blumenthal foundation at Columbia University have been published under the title of *Constitutional Government in the United States* (New York, Columbia University Press, 1908; 236 pp.); and if the volume does not at once take rank with his classic on *Congressional Government* it will be solely because discourses given before popular audiences must have a method of their own. The volume is characterized by the same qualities of imagination and style which enable President Wilson to illuminate (for the layman) with equal deftness *Quia Emptores* or a party caucus. Two of the lectures are devoted to the problem of the elements of constitutional government and the place of the United States in constitutional evolution; four cover the president, the House of Representatives, the Senate and the courts; two deal with the position of the states in the federal system and the function of parties in our scheme of politics. The tone of the work is conservative; President Wilson is not among those who long for some fundamental changes in our system of government; he believes that the Senate " represents the country, as distinct from the accumulated population of the country, more fully and much more truly than the House of Representatives does "; and he thinks that lawmaking is too complex a thing to leave to the popular device of counting heads. The text of the volume is primarily concerned with old and familiar themes, but it is shot through with keen and suggestive comment which will give the book a place of its own in our political literature.

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With the publication of his third volume, Professor H. A. Cushing has completed his collection of the *Writings of Samuel Adams* (New York, Putnams, 1908; 431 pp.). This includes the correspondence of the years 1778 to 1802. Before the earlier of these dates Adams had passed the culmination of his career. The interest and importance of his letters vary, and no public papers or newspaper articles of special value appear in this volume. The efforts of the royal peace commission of 1778 are severely condemned, to Arthur Lee is repeatedly awarded the strongest praise, while at intervals warnings are uttered about the decay of morals and of the spirit of liberty. A number of letters appear which were written to John Adams during the residence of the latter in England. The work closes with selections from Adams's letters and state papers while he was at the head of the government of Massachusetts.

Teachers of modern history have not as many tools at their disposal, as those who teach ancient or mediaeval history. We are glad to see that one very valuable collection of documents is being kept up to date. Professor F. M. Anderson of the University of Minnesota has published a second edition of his *Constitutions and Select Documents illustrative of the History of France, 1789–1907* (Minneapolis, H. M. Wilson and Company, 1908; xxvii, 693 pp.). The translation of the documents is not faultless, and the selection has been governed somewhat too closely by purely political interests to meet the needs of classes attempting to understand the real significance of recent French history. But the book is already a large one, and along the political line one has few suggestions to offer. The new edition has included the eight most important sources with reference to the struggle over the separation of church and state. The law of January 2, 1907 is given in sufficient fullness, and this alone renders the new edition worth while. There is a good index and a helpful bibliography.

Those who write historical manuals maintain that it is much more difficult to write a short history than a long one, owing to the difficulty of deciding what shall be included and what left out. If this be true, what harder task can be attempted by a historian than that of writing a short history of Egypt? This doubly difficult enterprise, however, has been accomplished with remarkable success by Professor J. H. Breasted in his *History of the Ancient Egyptians* (New York, Scribners, 1908; ix, 468 pp.). The book is a model of its kind. The narrative is lucid, simply told, yet crowded with incident and rich with description. The main difficulty in such a history is that the reader, set adrift amid the hieroglyphic names, might easily lose his bearings in the

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long stretch of those distant centuries. The author has surmounted this at the outset. Before the reader is permitted to embark upon the perilous journey, he receives a chart in the form of a preliminary survey, in a score of pages, of the route he is to follow. This short plan, with its clear chronological outline, will prove of the utmost value to the uninitiated. It is well, however, that these should be warned that, while many Egyptologists accept the shorter chronology given by Professor Breasted, there are still some who cling to the old. The book is excellently gotten up, with maps and plans.

Excerpta Cypria, Materials for a History of Cyprus, by Claude D. Cobham, late commissioner of Larnaca (Cambridge University Press, 1908; 523 pp.), is a collection of extracts from the writings of about eighty authors, representing a dozen languages. A few are from English writers, the rest are careful translations. It is to be regretted that Mr. Cobham has left unnoticed the long, interesting period preceding the birth of Christ, when the island was ruled by Egypt or Assyria or Persia or was coveted by the Athenians as the key to the eastern Mediterranean or formed a dependency of the Roman republic. His earliest author is Strabo, who lived at the opening of the Christian era; his last selection is a charter issued by the Sublime Porte to Sophronius, archbishop of Cyprus in 1866. Most of the material is mediæval and modern. There are accounts of the geographical features, the climate, soil and natural history of the island, of the manners, customs and religious views of the inhabitants, of interesting persons and events, of church buildings and public works and of economic and political conditions at various times. The volume, which closes with a considerable bibliography and a brief index, will undoubtedly prove of great value to all who wish to make themselves acquainted with Cyprus.

Everything that A. E. H. Lecky wrote bears the marks of his philosophic spirit, lending some permanent value even to essays dealing with topics of the day. One welcomes, therefore, the publication in book form of a group of articles contributed by him from time to time to various reviews. The collection bears the title *Historical and Political Essays*, (New York, Longmans, Green and Company, 1908; 324 pp.). Lecky was always the cultured English gentleman, essentially sane, intellectually alert and emancipated, yet frankly conservative and out of sympathy with the drift toward radicalism which he saw in England in the last years of his life. There is little of the inspired in his work, yet little that is not profitable. His style is as straightforward as his thought. His essay on Carlyle is a good example of common sense in judgment upon genius. His "Thoughts

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upon History" are a reasonable protest against the pernicious influence of the unimaginative compiler who dreams the impossible dream of a synthesis without injecting his personality into it. "Ireland in the Light of History" is a plea for the use of the historical imagination in judging the motives of men as well as in the description of incident. There are as well biographical studies, including one on Queen Victoria; and the collection closes with a characteristically Leckian attack upon the Old Age Pensions.

Dr. Heinrich Rauchberg, in an interesting pamphlet entitled, *Die Bedeutung der Deutschen in Österreich* (Dresden, von Zahn and Jaench, 1908; 42 pp.) compares the social, political and economic position of the Germans in Austria with that of their fellow-countrymen belonging to other nationalities. His conclusions are supported by valuable statistical tables printed in an appendix.

In introducing into the Austrian parliament in 1906 his revolutionary suffrage reform bill, Baron von Gautsch declared that a mathematical division of representation according to external signs was simply an impossibility, because there was no precise statistical standard for measuring the forces of representation. Dr. Heinrich Rauchberg, however, contends that it is possible to make a fairly correct distribution of voting power according to provinces, town and country, nationality and economic conditions, as measured by taxation. This contention he sustains in his *Statistische Unterlagen der Österreichischen Wahlreform* (Brunn, F. Irrgang, 1907; 70 pp.), which is a detailed statistical study of the distribution of representation under the new electoral reform law.

In his *Principles of Anthropology and Sociology in their Relations to Criminal Procedure* (New York, The Macmillan Company, 1908; 410 pp.) Mr. Maurice Parmelee briefly reviews the progress of criminal procedure, from the time of Montesquieu, Voltaire and Rousseau to the present day, and gives a careful and comprehensive summary of the positions taken by the three foremost scholars of the so-called Italian school of criminal anthropology and sociology, Lombroso, Garofalo and Ferri. In the light of the discovery of these and later writers, a strict individualization of punishment is advocated. In the remaining chapters of the work, the existing methods of procedure and various suggested reforms are compared, and the writer's own theories are advanced. Among other things he advocates a police force sufficiently trained in criminal anthropology to detect and investigate crime; a public defender for the accused; the examination of witnesses by an expert in psychology before their testimony is taken; the abolition of

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the jury, except in certain technical cases, where it should be composed of experts; criminal lawyers who have studied criminal anthropology and sociology in law schools; and judges who have been trained in the same branches and in psychology, who must also have served a definite period of time as public prosecutors and as public defenders. In addition to these reforms, an indeterminate sentence is advocated with occasional revision of sentence at the discretion of the judge. This work will be particularly welcome to the student of comparative criminal procedure.

Alderman W. Thompson of Richmond, Surrey, England, has made another valuable contribution to the body of information on rural and city housing in Great Britain and European countries in his *Housing Up-to-Date* (London National Housing Reform Council, 1907; 306 pp.). This volume, as its title suggests, is written to bring up to date the facts and figures in the author's *Housing Hand Book*, published in 1903, and to include information on recent developments in housing administration and legislation. Like his preceding works, it is a comprehensive reference book, packed full of facts and figures, and is intended for interested students, legislators, taxpayers, investors, managers of housing enterprises and public-spirited men desirous of improving the living conditions of the working people. The present situation in regard to housing Mr. Thompson considers definitely encouraging because of the general awakening of the public conscience on the subject, but he thinks the work already done only a tithe of what must be accomplished. He summarizes existing housing conditions, housing laws and housing needs. He describes the wiping-out of slum areas by purchase and reconstruction by public authorities and by compelling owners to make improvements. He defends municipal housing against the charge of checking private initiative. He describes in detail public and private enterprises in tenement and cottage building and the results obtained. He discusses town and site planning, considers transit in its relation to the housing problem and takes up comprehensively the cheap cottage exhibits and garden cities. For full, reliable and carefully classified information on the special subjects treated, the book can scarcely be surpassed.

A Counterfeit Citizen (New York, Broadway Publishing Company, 1908; 346 pp.), by "Sam" Scudder is a tirade in the form of a poorly written novel against "the indiscriminate immigration which", it is alleged, "has been flooding this country for the last fifty years." It claims to be founded "upon actual occurrences" and "from the pen of one who was for many years in the service of the government in a high and confidential capacity."

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The title which Mr. Dudley Kidd has given to his book about the Kafirs—*Kafir Socialism and the Dawn of Individualism* (London, Adam and Charles Black; New York, The Macmillan Company, 1908; 286 pp.), is less descriptive of its contents than the sub-title: *An Introduction to the Study of the Native Problem*. In the first chapter the author endeavors to justify the application of the term "socialism" to that group solidarity which is always found in tribal society, but his effort is hardly successful. In this chapter he states that "the roots of their [the Kafirs'] policy are to be found in their clan system." The analysis of that system which Mr. Kidd gives us in the following pages is unscientific. No definition or adequate description of the clan is presented. The reader is often in doubt whether the author is writing of a clan in the ethnological sense of a body of closely related kindred bearing the same totemic name or merely a clan in the popular sense of an integral group smaller than a tribe. When fundamental conceptions are thus loosely treated it is vain to expect a careful analysis of the relations of property and government to the "clan-system" or an adequate account of such socialistic elements as may be found in those relations. The bulk of the book is devoted to the difficulty of harmonizing British conceptions of justice with those of the natives, the question of granting the franchise, the reform of educational methods and the possibility of civilizing the Kafir. A final chapter presents "The Solution of the Native Problem." To separate Mr. Kidd's useful suggestions from the mass of tedious verbiage in which they are concealed would be a thankless task. The one redeeming feature of the book is the fact that from the various anecdotes and from the quotations from scientific writers the popular reader may possibly gain the conception that the Kafirs as subjects of Great Britain should be treated with at least some knowledge of their habits and customs.

The *New Encyclopedia of Social Reform* (New York and London, Funk and Wagnalls, 1908; 1325 pp.), edited by the Rev. W. D. P. Bliss, is to be regarded rather as a new book than as a new edition of the former work; for the alterations and enlargements indicate a careful revision of all the material contained in the original encyclopedia and the addition of much that is entirely new. Because it is really contemporaneous it will be useful; for so rapid has been the development of the modern social movement that no book not fresh from the press can satisfy the student of existing social conditions. Further, this encyclopedia is careful to present varying views of mooted questions, and it follows the desirable method of entrusting the presentation of each view to one of its advocates. This gives a positive character to the

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articles, while over-statement is corrected by the presentation of the other side, at least whenever there is another side. It may, however, be suggested that due sense of proportion is not always exhibited. For example, the names of various obscure members of the Russian Duma have been deemed worthy of notice, although it is not anywhere indicated that these persons have as yet accomplished anything; while so conspicuously useful a citizen as R. Fulton Cutting, a leader in the most important movements for social betterment in one of the greatest centers of population in the world, has been passed by without mention. On the whole, however, the *Encyclopedia* is a most meritorious work, and one which the social student will find very useful.

Two books have recently appeared which indicate the progress that the socialist movement is making in England. One is J. Ellis Barker's *British Socialism* (London, Smith Elder and Company, 1908; vi, 522 pp.) the other is an anonymous work entitled, *The Case Against Socialism* (New York, The Macmillan Company, 1908; 537 pp.). The aim of both books is to show the undesirability of a socialist system, and for this purpose copious extracts from socialist writers are given and all the well-known arguments of the writers of socialism are reproduced. The introductory sketch of the recent history of the socialist movement in England contained in *The Case Against Socialism* is however of considerable interest.

An elaborate study of the foundations of modern economics is contained in the book by Professor Albert Schatz, of the law faculty of the University of Dijon, under the title *L'Individualisme* (Librairie Armand Colin, 1907; 590 pp.). Beginning with the anti-mercantilist reaction, the author takes up especially Mandeville, the Physiocrats and the classic or liberal school in its various manifestations during the nineteenth century. While not an advocate of *laissez-faire*, Professor Schatz thinks that there is an irreconcilable antinomy between the principles of individualism and those of socialism, and he believes that the coming decades have in store a reaction against the present socialist trend. Professor Schatz is broadminded and scholarly, and his book will be valuable to the English-speaking public as well as to his countrymen, because of its fresh treatment of some of the continental European authors.

Critics of our modern life have risen without number. One of the most refreshing of these is Professor John C. Van Dyke of Rutgers College, who has recently published a little volume called *The Money God* (New York, Charles Scribners' Sons, 1908; xiv, 169 pp.). As the title suggests, it is the fierce struggle for the dollar that is held up to

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contempt. The taint of commercialism, the author says, is to be found in every department of our national life. Most of our legislation centers about the interests of "business", the laborer and capitalist are engaged in a fierce struggle to get each for himself as high a share as possible; the immigrant comes here not because he seeks liberty but because he wants some of the American dollars; and the views of the capitalist and of the laborer on the important question of immigration are determined not by consideration of broad national policy or national ideals but simply by narrow and selfish class interests. The author also pays his respects to our American colleges and universities which have established "commercial courses" and "schools of commerce". "Here", he says, "are not only straws but whole fields of grain that show which way the wind is blowing." Even the professions, he says, have become almost hopelessly commercialized; and adds: "'All that the traffic will bear' is now applied almost as readily in a physician's or dentist's 'parlor' as in a freight agent's office." Even the writer "writes not what he would but, three times out of four, what an editor or publisher suggests." The "development" of the country, the author finds, has thus far meant a shameless waste of its natural resources. In our business cities he sees ugly combinations of vulgar display and abject poverty. The whole feverish struggle for wealth has meant little, he believes, for real development or real happiness. Through the whole book, filled as it is with brilliant antitheses and touches of sarcasm, runs a saving thread of humor. The criticism is a kindly one, and is so because the author believes that at bottom the heart of the American people is right and that ultimately the money madness will be overcome. In the meantime, he concludes, "whatever our defeat, we should continue to fight."

Four years after the first publication of the work comes the second edition of Professor A. Loria's *Verso la giustizia sociale* (Milano, Societe Editrice Libraria, 1908; 632 pp.). To the fifty or sixty essays, written during the past few decades, which were collected in the first edition, Professor Loria has now added a number of new contributions, and he has provided the volume with an introduction under the caption: "Is there such a thing as social justice?" The single papers, which cover a great variety of topics, are divided into three classes: the so-called critical essays, which deal with the works of both Italian and French economists; the so-called economic essays, which cover a large number of topics on economic theory, the labor question, international trade and finance; and the so-called sociological essays which deal in part with socialism and in part with sociology. To the

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many admirers of Professor Loria, who is incontestably one of the two most brilliant Italian economists, and quite without doubt Italy's most elegant stylist in political science, the volume in its new form will be welcome, even though it contains no important further development of the well-known views of the distinguished author.

The timeliness of Mr. William Sutherland's *Old Age Pensions in Theory and Practice* (London, Methuen and Company, 1907; x, 227 pp.), is attested by the enactment by Parliament, soon after its publication, of the first British Old Age Pensions Act. In compact, logically ordered chapters the author describes the different plans that have been suggested, the arguments for and against them and their parliamentary history and prospects. He then discusses the pension policy that should be adopted and arrives at conclusions quite similar to those embodied in the bill that has since become a law. Summary descriptions of the chief old-age pension plans in operation in other countries and tables of statistics in appendices serve to make this the most useful manual on this much-discussed subject that has yet appeared.

In the *Sweated Industry and the Minimum Wage* (London, Duckworth and Company, 1907; xxiv, 281 pp.), Miss Clementina Black presents a very strong argument in favor of the prescription by law of minimum wages as a remedy for the evils of sweating, which she graphically describes. The plan she advocates is the creation of wage boards in the industries in which sweating prevails, similar to the wage boards in successful operation in Victoria. While wisely leaving the details of the regulative policy to be determined by experience, she successfully exposes the inadequacy of less drastic remedies and seems to leave the reader no alternative between acceptance of her plan and the continuance of evils which she shows to be almost intolerable.

Most of the literature in regard to the operation of New Zealand's system of compulsory arbitration has been written either by foreign observers or by native officials prejudiced by their very position in favor of the policy. *State Regulation of Labour and Labour Disputes in New Zealand* by Mr. Henry Broadhead (Christchurch, New Zealand, Whitcombe and Tombs, 1908; iii, 230 pp.), is a description and criticism of the system by a secretary of an employers' association, which shows pretty conclusively that "the country without strikes" is far from having become the industrial paradise that it is sometimes represented to be. Of more weight than Mr. Broadhead's own rather unfavorable opinion of New Zealand's experience is the detailed evidence he has collected, showing how the system actually works. From this point of view his book is on the whole more enlightening than any

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other yet published on the subject. In it is contained much of the information on which any intelligent opinion must be based, and it is to the author's credit that this information is always kept clearly separate from his own comments.

Employers' liability and compensation for industrial accidents are subjects attracting a growing attention in America, but in this country we have not begun to pay the attention to diseases arising from occupation and their compensation that has been paid to the subject in England. Dr. Thomas Oliver, professor of physiology at Durham University has recently published a book called *Diseases of Occupation* (New York, E. P. Dutton and Company, 1908; xix, 427 pp.) which aims to show to what extent different diseases are directly traceable to occupation. Dr. Oliver is a sympathetic believer in factory acts and workmens' compensation, but his book is not written in the timber of the advocate; it is a calm, scientific exposition of facts. Nevertheless it is a strong argument in favor of compensation for diseases as well as for accidents of occupation and it will unquestionably be so used.

The free-trade controversy in England has given rise to some remarkable works. Among them not the least curious is Mr. John Beattie Crozier's *The Wheel of Wealth, being a reconstruction of the Science and Art of Political Economy on the lines of modern Evolution* (Longmans, Green and Company, 1906; 526 pp.). As the title modestly indicates, this is an endeavor to reconstruct the whole of political economy, for Crozier has little but contempt for all the best writings on the subject. When we look more closely at the "reconstruction" we find that it consists in the acceptance of Hobson's theory of consumption and a justification of the policy of protection. The distinctions that Crozier makes convince him that he has "reconstructed" the science of political economy from its foundation, very much as the science of astronomy was reconstituted when the Copernican system replaced the Ptolemaic. He is much impressed, however, by the fact that Hobson's theory culminates in free trade, while his own culminates in protection. Amid the multiplicity of invective heaped upon the ordinary economist, it is startling to finds on page 303, a reference to the theory of foreign exchanges which "has been done admirably and exhaustively by Goschen and the other leading economists." Whether these are to be considered Copernicans or Ptolemaics is therefore not clear. It is to be regretted that a work which contains a few good ideas and valid criticisms should be marred by self-adulation, intemperate language and inconclusive reasoning.

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New proof of the awakened interest in problems of recent theory that is felt in France is afforded by the volume by Paul Frézouls on the modern theory of rent, under the title *La Theorie de la Rente et son extension récente dans la science économique* (Montpellier, Firmin, Montane et Sicardi, 1908; 318 pp.). M. Frézouls devotes his attention almost exclusively to the recent English and American literature on this topic. He leans, on the whole, rather to Marshall's conception of rent and quasi-rent as a differential surplus, but he makes considerable concessions to the American critics of Marshall. Owing to the efforts of men like Schumpeter in Germany and Frézouls in France, the more modern doctrine of rent bids fair soon to find its way into continental literature.

With the exception of the introductory manual of Gide, French economic literature has included no text-book on the level of modern research, for all the older and widely read works have been the products of the orthodox or so-called "liberal" school. This gap has now been filled by the appearance of M. Adolphe Landry's *Manuel d' Économique* (Paris, Giard and Brière, 1908; 889 pp.). M. Landry, who is in charge of the course upon the history of economics in the *École des Hautes Études*, is favorably known to economists by his books on interest, and on the social utility of private property. In the present volume he shows that he is thoroughly abreast of all the recent discussions in Europe as well as in the United States, and he has succeeded in writing a text-book designed for the use of the law students which is at once interesting and distinctly up to date. It will no doubt make a place for itself not alone in the French but also in the international literature on the subject.

After a lapse of fifteen years a revised edition has appeared of Professor R. T. Ely's *Outlines of Economics* (The Macmillan Company, 1908; 700 pp.). The author has been assisted in the revision by Professors Thomas B. Adams and M. O. Lorenz, of the University of Wisconsin, and Professor A. A. Young of Stanford University. In its present enlarged form it is a far better work than the original, and it now forms a distinctly valuable addition to the growing list of modern text-books. An attempt has been made to give due consideration to the newer economic theories, and we notice, in especial, an acceptance of the so-called productivity theory of distribution.

Mr. Rufus F. Sprague, a Michigan manufacturer, has put together in a little volume entitled *The True Nature of Value* (University of Chicago Press, 1907; 178 pp.), the thoughts of a lifetime on this subject. Mr. Sprague himself calls his contribution a service theory of

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value, but his main thought is to the effect that the utility of the service is measured by the objective difficulty to be overcome in supplying the product. The theory is thus virtually based on a combination of the two elements of service rendered and cost of production. In its essence it is in harmony with much of what is best in the recent literature on value.

Many criticisms of the marginal utility theory of value have appeared in Germany, but it has been reserved for Dr. F. Lifschitz, Privat-Dozent in the University of Berlin, to approach the problem from a novel point of view. In his *Zur Kritik der Böhm-Bawerkschen Werttheorie* (Leipzig, Wilhelm Engelmann, 1908; 115 pp.), Dr. Lifschitz contends that the psychological theory of value is defective from the psychological point of view itself. He objects especially that there has been no adequate investigation of the theory of wants, upon which the modern doctrine of value is supposed to be erected, and he finds another important defect in the failure to distinguish between individual and social psychology. To the professional economist, however, the attack does not seem to be entirely convincing.

At the Royal Bavarian Academy of Sciences, Professor Brentano of Munich delivered in February, 1908, an address on the development of the theory of value, which has since been elaborated into a monograph of eighty-four pages, under the title *Die Entwickelung der Wertlehre*. It is an admirably written survey of the subject, and refers especially to the contrast between the subjective and objective theories of value. It is based largely on the investigations of Dr. Kaulla, one of his students, whose monograph on the subject was reviewed in this QUARTERLY, volume xxii, page 186. Exception may, however, be taken to Professor Brentano's treatment of the subject in the following respects. In the first place the simplicity of the mediæval doctrines is much exaggerated, and in some respects a false impression is conveyed. Secondly, the statement that in the mediæval doctrines of money Oresme was a follower of Buridan has been disproved by Bridrey's great work on Oresme published three years ago, and which was reviewed last year in this journal, volume xxiii, page 183. Thirdly, Professor Brentano, like all the Germans, has quite overlooked the fact that the origin of the marginal-utility theories is to be found not in France with Dupuit nor in Germany with Gossen, but in England with Lloyd. Finally, unmerited importance is attached to Jennings, whose book Professor Brentano confesses he has never seen.

An interesting contribution to the history of economic theory is found in the sympathetic study by Professor Cossa, of the University

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of Messina, entitled *L'Interpretazione scientifica del Mercantilismo* (Messina, Tipografia F. Nicastro, 1907; 65 pp.). The modern world has slowly arrived at the conclusion that the doctrines of mercantilism were relatively justifiable, but it was reserved for Professor Cossa to show, not only that they were justifiable, but that any other scientific analysis of the situation existing at that time would have been incorrect. Cossa, in other words, maintains that the mercantilist theory was a necessary step in the development of economic policy, and that its chief advocates understood the real conditions of national wealth and progress just as well as the writers of a later age understood their own conditions.

The literature of economics has been notably enriched by the appearance of two new French periodicals. The one is the *Revue d'histoire des doctrines économiques et sociales*, which is a bi-monthly, published under the direction of Professor Deschamps of the law faculty of Paris and of Professor Dubois, of the law faculty of Poitiers and under the editorial management of M. Depitre, also of the law faculty of Paris. There is such an immense mass of French literature, more especially of the seventeenth and eighteenth centuries, which is almost entirely unknown to students, that the journal will have ample opportunity to achieve its aim. It will not, however, confine itself to the history of French economics. To judge from the first four parts, which contain among other things, two hitherto unpublished articles by Quesnay, the magazine is likely to be as valuable as it is unique in modern periodical literature. The other new periodical is entitled *Travaux juridiques et économiques de l'Université de Rennes*. This is published at occasional intervals, in numbers ranging from 150 to 300 pages, and is composed of studies on economic topics written by members of the law faculty of Rennes and their students. The periodical is not for sale and can be secured only through exchange with the University librarian. The first two fascicules contain a number of serious and valuable articles on various phases of French economic history as well as two studies by Professor Turgeon, one an introduction to the history of economic doctrines, the other on socialism and the right of inheritance.

A. M. Ferguson and L. L. Lewis have recently prepared a little treatise called *Elementary Principles of Agriculture* (Sherman, Texas, Ferguson Publishing Company, 1908, xvi; 304 pp.). The book is divided into three parts, dealing respectively with plant life, stock and cattle raising and certain special topics such as the home lot, forestry, farm machinery *etc.* In the appendix a list of books on agriculture is

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given. The text is abundantly supplemented with well-executed diagrams and some admirable illustrations. The book is intended for use as a text book in the schools of the Southwest and the aim of the authors, as expressed in the preface, is "to satisfy the natural interests of all children about the *whys* of common farm conditions." However, the book is more than a mere text-book for school children and adults not specially versed in the subjects with which it deals will find much of interest and practical value within its pages.

Mr. Francis Cooper's *Financing an Enterprise* (New York, The Ronald Press, 1906; two volumes; viii, 252, 291 pp.), is a "practical" work upon the investigation, promotion and capitalization of incorporated enterprises. Considerable space is devoted to the general theory of the capitalization of corporations, but the explanation of this subject, while lucid and sensible, is quite elementary. The main object of the book is to serve as a manual of information for investors and promoters. It discusses the legitimate practices in the art of promotion as well as the tricks of the trade. All the generalities, including many that are somewhat obvious, are so fully illustrated by instances drawn largely from the author's "fifteen years of experience in legal work" connected with the financing of enterprises—that the book is of a diffuse character. It makes useful reading for the business man. From the academic standpoint it is to be described rather as a light and interesting manual than as a contribution to economics.

The problem of international investments, which has attracted so much attention in recent years, receives a close study at the hands of Professor A. Sartorius, Freiherr von Waltershausen, in a volume en-entitled *Das volkswirtschaftliche System der Kapitalanlage im Auslande* (Berlin, George Reimer, 1907; 442 pp.). The volume is divided into four parts, the first dealing with the theory of world commerce, the second with international economics, the third with the emigration of capital and political power and the fourth with the social effects of international investment. Naturally the three countries to which most attention is devoted are England, Germany and the United States. The volume contains a large amount of fresh material and many interesting suggestions. Perhaps the most striking is the discussion of what Professor Sartorius calls the "*Rentnerstaat*", that is the creditor state, which lives primarily on the interest of its investments abroad. He shows from the experience of Holland in the eighteenth century that, when this form of social income becomes of chief importance, the country is on the highroad to economic decay, and he discusses with fairness the tendencies in this same direction that are visible at present

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in England. Like all modern Germans, he is fully aware of what he calls "*weltwirthschaftliche Aufgabe*" of his own country, but to Americans also the volume will be of considerable service. Worthy of notice on the purely economic side is his discussion of the doctrine of reciprocal liabilities, under the head of the "*Forderungsbilanz*".

It is not easy to see why Dr. N. Pinkus should have written and published *Das Problem des Normalen in der Nationalökonomie* (Leipzig, Duncker and Humblot; 295 pp.). The gist of the work is to be found in the last chapter entitled "The Theory of Economic Disturbances", which is supposed to be a contribution to the theory of crises. All the preceding chapters are devoted to a study of the normal or undisturbed situation; but these deal only with what the author calls the "history of economic value", and contain a hurried survey of the views of several dozens of writers. This work has already been done, and better done, by Bergmann in his *History of the Theories of Crises*, and neither the historical nor the theoretical part of the present volume can be regarded as an addition to our knowledge.

Dr. Friedrich Bendixen, the head of one of the large banks in Hamburg, has become a convert to Professor Knapp's new theory of money, and has attempted to apply it to the bank problem in Germany in a monograph entitled, *Das Wesen des Geldes: zugleich ein Beitrag zur Reform der Reichsbankgesetzgebung* (Leipzig, Duncker and Humblot, 1908; 60 pp.). The exigencies of the existing situation, however, cause Dr. Bendixen to declare his adherence to the gold standard in Prussia, although he foresees the time when gold will cease to be the basis of the world's money supply.

Mr. A. H. Gibson has published two books of interest to students of finance. The one is entitled *Bank Rate: The Banker's Vade Mecum* (London, Simpkin, Marshall and Company, 1908; 69 pp.). This is the first instalment of what is to be an annual publication, giving the details and changes of the bank rate in England since Peel's Bank Act. In the other work, published by the same firm and entitled *The Fall in Consuls and their Investment since 1897*, Mr. Gibson essays the more difficult task of economic analysis. His general theory is that, just before the conversion scheme of 1908, the consols had reached the point of extraordinary inflation, and that with the gradual subsidence to normal conditions consols at the lower rate of interest necessarily sell far below par. Mr. Gibson's contention is that the normal rate of interest on consols is three per cent, and his remedy for the present low price of consols is to have the rate of interest restored to that normal figure.

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An elaborate and not thoroughly successful attempt to write a history of theories of money is found in the work of Dr. Friedrich Hoffmann, *Kritische Dogmengeschichte der Geldwerttheorien* (Leipzig, C. L. Hirschfeld, 1907; 294 pp.). Dr. Hoffman has read widely on the subject, but he quotes too many authorities, he fails to distinguish between those that are important and those that are unimportant and his analysis and classification of the various schools are not altogether happy. As a work of reference it will no doubt take its place among the histories of economic doctrine; but its value can not be regarded as commensurate with the industry which its author has exhibited.

Among the chief writers of the eighteenth century whose importance in modern times has been much neglected is the French financier Forbonnais. A young Italian, Dr. Carlo Torlonia, devotes a separate work to him under the title of *Le Dottrine finanziarie di P. V. Duverger de Forbonnais* (Rome, B. Lux, 1908; 114 pp.). Dr. Torlonia calls attention especially to Forbonnais' work on the finances of France and takes up in some detail the views of his author as interpreted in the light of the conditions of the day. It is a painstaking piece of work.

Among the works dealing with mediæval finance, none is quite so elaborate as Dr. Paul Sander's study of the financial system of Nuremberg in the fifteenth century, published under the title, *Die Reichsstädtische Haushaltung Nürnbergs* (Leipzig, B. G. Teubner, 1902; 938 pp.). It is not only a detailed presentation of the system of revenue and expenditures, but also a study of the whole administrative system of the mediæval city. While not differing fundamentally in its conclusions from the works of Bücher, Schönberg, Zeumer and other historians of mediæval municipal finance, the work will be a welcome addition to the study of comparative fiscal systems. The investigation was subsidized by the city of Nuremberg itself and is in every way worthy of its sponsors.

In *The King's Revenue, being a hand-book to the Taxes and the Public Revenue* (London, P. S. King and Son, 1908; 221 pp.), Mr. Wm. J. Williams presents a convenient reference book on the subject of British finance. No attempt is made to comment upon the laws or the system, but a full statement is given of the details of the legislation and of the statistics of revenue and expenditure for the past ten years. It will prove a serviceable manual.

The first annual meeting of the Minnesota Academy of Social Sciences was devoted to the subject of taxation, and the results appear under the title of *Papers and Proceedings of the First Annual Meeting of the Minnesota Academy of Social Sciences* (published for the

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Academy by the Northfield News, 1908; 197 pp.). Professor McVey has acted as editor. Among the contents are to be found not only papers referring to topics of special interest in Wisconsin, Minnesota and Michigan, but also some of a wider importance. The volume is a distinctly creditable one.

In the voluminous literature that has been evoked by the recent discussion of the income-tax project in France, perhaps the most noteworthy is the work of M. Gaston Gros, *L'Impôt sur le Revenu* (Paris, Larose and Tenin, 1907; 585 pp.). Mr. Gros is a French lawyer who has made an earnest study of the situation. The book is divided into three parts. The first deals with the theory of the subject. It discusses the general problems of incidence, rate and administration and contains, in particular, a comparison between the "lump-sum", the "schedule" and the "outward presumption" income tax. The second part takes up in detail the English system, the Prussian and Italian systems and the French system, closing with a survey of the earliest French projects during the past decade. The third part gives the author's own scheme in the form of a bill, with notes. Mr. Gaston Gros is on the whole an advocate of the lump-sum income tax project, but with considerable modifications designed to meet French conditions. The book is a serious and praiseworthy attempt to grapple with this important problem, and is on the whole the most complete study of the income tax to be found in any language.

The rapid development during the past few years of municipal taxes on the unearned increment of land has led Dr. Boldt, one of the municipal counsellors of Dortmund, to write what is now the fullest and most authoritative work on the subject, *Die Wertzuwachsteuer* (Dortmund, W. Trüwell, 1908; 140 pp.). In this monograph will be found the latest and fullest details of the extraordinary spread of this system of taxation to all parts of Germany.

The second instalment of Volume III of the Economics and Political Science Series of the Bulletin of the University of Wisconsin, consists of *A Congressional History of Railways in the United States*, by Professor L. H. Haney of the University of Iowa (Madison, Wisconsin, 1908; 274 pp.). Professor Haney has limited his study of materials to the Federal documents. He takes up in an interesting way the rise and development of the railways, and especially the subject of land grants, which is treated more fully than in any previous work. The present volume closes with the year 1850, and is to be followed by another dealing with the later period.

The Cambridge Library University Press has published a second

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edition of Professor Cunningham's *The Rise and Decline of the Free Trade Movement* (Cambridge, 1905; 212 pp.). It is a striking fact that not only Cunningham but also Ashley and Hewins and in fact, all the historical economists in England are on the side of protection in the present controversy. The historical perspective tends always to make one less intolerant of so-called heterodoxy.

The much mooted question of "dumping" and, in particular, the advantages of the business practice of making export prices lower than domestic prices are discussed by Dr. Willi Morgenroth, in *Die Exportpolitik der Kartelle* (Leipzig, Duncker and Humblot, 1907; 119 pp.). Dr. Morgenroth, who is the librarian of the Commercial High School in Cologne, is of the opinion that most of the arguments in favor of the practice are not really valid, and that the objections are to be seen chiefly in the cases where the high-priced domestic products are themselves the raw material for more finished products. He recognizes the fact that the practice is not confined to countries which have both trusts and high protective duties, and he believes that the real American peril will begin for Germany when our iron duties are lowered.

To offer solutions for the trust, railroad, municipal utilities, labor and negro problems would seem to be an almost recklessly ambitious undertaking for a single individual; and yet that is what Mr. H. E. Montgomery has recently done in his book on *Vital American Problems* (New York, G. P. Putnam's Sons, 1908; v, 384 pp.) To Mr. Montgomery's credit it must be said that he has handled this difficult task very well. His book bears evidence of wide reading and painstaking study; and his conclusions in favor of federal control of trusts and railroads, adequate public control (as opposed to municipal ownership) of municipal monopolies, a system of mediation in trade disputes with ultimate adjustment by a special industrial court, and industrial education of the negro—these conclusions have the weight of much other authority behind them. Many a busy man, anxious to inform himself concerning these problems of modern American life but not able to select the best books from the mass of literature on each topic, will find in Mr. Montgomery's book a very satisfactory introduction.

Mr. Norbert Lafayette-Savay believes that he has discovered "the long-sought method, leading to the solution of the social, political and economic problems of our day, and the substratum upon which a great future can be safely and speedily built." Whoever is looking for a universal solvent for our modern ills will read with interest his *Emancipation: An Introduction to the System of Progressive Government* (New York, The Knickerbocker Press, 1908; 161 pp.).

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